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I. INTRODUCTION

The recent fighting between India and Pakistan was the culmination of the campaign of hatred that Pakistan has ceaselessly carried on against India. The basic principle of its international policy is opposition to India on every front; as the London *Times* recently observed, "The loadstone of every aspect of Pakistan's foreign policy is bad relations with India."

Kashmir Not the Only Issue

It has often been said that the only bone of contention between India and Pakistan is Kashmir and that if the problem of Kashmir were solved to Pakistan's satisfaction, then there would be friendship and full cooperation between our two countries. I beg to differ. It is difficult to understand the basic philosophy on which the policy of Pakistan is based. In every aspect of its foreign policy, it has disclosed an anti-Indian bias. At one time we were told by responsible Pakistan leaders that the reason why they were driven into the arms of China was our Kashmir policy; they subsequently said that even if the problem of Kashmir were solved, Pakistan would continue to support China. In other words, Pakistan's present attitude of hostility towards India is not due to the Kashmir problem alone, but it is something more deep-seated.

The same holds good for Pakistan's attitude to communal riots in that country. The argument is that riots would miraculously stop if the Kashmir problem were solved. There is no connection between Kashmir and

the riots. Riots take place because of the communal policy of Pakistan and because of the incitement to communal passion of which it is guilty.

One might ask oneself what Pakistan seeks to achieve by its anti-Indian crusade, its campaign of scurrilous abuse and hatred of India. Is it of any help to the Muslims of India to excite communal passion, to fan the flames of fanaticism and intolerance, and to preach *jehad* or holy war ? No war is holy; every war is cruel, blood-thirsty and the cause of terrible suffering and distress.

I do not think Pakistan is so unsophisticated as all that. It wants to see discord and turmoil in India—it wants India to be politically and economically weakened so that it can get an opportunity to continue further its present illegal occupation of a part of territory which, by international law, is as much a part of Indian territory as Bombay or Delhi. Pakistan is playing the Chinese game of weakening India internally and thereby undermining India's defences against China. I wish to make it clear that nothing will induce any Government in India, whatever be its party affiliations, to sign the death warrant of the unity, integrity and solidarity of the country.

Nationality Cannot be Equated with Religion

Kashmir is part of India, not as a result of conquest; nor is it a case of one race ruling over another; Kashmir has been part of India since time immemorial, and the people of Kashmir and the rest of India are racially and ethnically the same. Even religiously, although in that part of India Muslims might be in a large majority, this

majority professes the same religion as 50 million Muslims in India.

It is here that the basic difference between Pakistan and India arises. The bond that Pakistan finds with the people of Kashmir, and which makes Pakistan say that the people of Kashmir are their kith and kin, is not common nationality; it is not a common race; it is not common traditions or common history; but the bond of religion alone. We emphatically deny and repudiate a philosophy which equates nationality with religion. The basic philosophy on which our State is based, and our Constitution is enacted, is a multi-racial society, a society in which people of different religions can live together happily and can be treated as equals before the law and can enjoy the same rights and opportunities.

As our President said on the occasion of our Republic Day, January 26, 1964 :

> "In our democracy men of all faiths have the right to live in honour and harmony under the rule of law; life and liberty of every citizen, irrespective of caste or creed, ought to be sacred to every other. Any departure from this is not only morally indefensible but politically dangerous; it weakens our internal unity at a time when the danger to our country from without is undiminished. The Government can and will take every step necessary to put down anti-social behaviour but the co-operation of the people is no less important if peaceful conditions are to be preserved, for such peace is the basis on which we could build our future."

Pakistan has pretended to show great solicitude for the Muslims living in India. When Pakistan talks of the Muslim minority, it gives one the impression that we

are dealing with a few thousands or a few hundreds of thousands of people in a large country tucked away in some far corner and surrounded by a large mass of Hindu population.

Indian Muslims are not a minority in the ordinary sense of the term. They constitute 50 millions of the population of India. India is the third largest Muslim State in the world—the first being Indonesia and the second Pakistan. They are sons of the soil, they are Indian by race and they enjoy all the rights of citizenship. Every office is open to them, and in fact many of them hold the highest offices in the land. Our civilization is a synthesis of many diverse cultures and the Muslim contribution is one of the most significant. Ours is a secular State and an egalitarian society where everyone enjoys equal rights and equal opportunities and equal protection of the law. We have no official religion. Hindus, Muslims, Christians, Buddhists, Sikhs, Parsis and others have full freedom of worship, and fundamental rights under the Constitution are guaranteed to every citizen. We have no first-class and second-class citizenship. Before the law everyone is equal.

May I refer to the testimony of an exalted and impartial observer of the Indian scene. Even Pakistan cannot challenge the importance and the significance of his statement. His Majesty King Saud of Saudi Arabia at the conclusion of his visit to India said this :

> "When I set foot on this precious soil,"—that is, India—"two questions engaged my mind : the fate of the Muslims of India and the general administration of this sub-continent after withdrawal of the British rule... I desire now, at the conclusion of my visit to India, to say to my Muslim brethren all

over the world, with greater satisfaction, that the fate of the Indian Muslims is in safe hands.... This assurance has been corroborated by all Muslim leaders whom I met."

Pakistan has realized that the only way it can seek to justify itself at all is to make out a case of trouble and discord in Kashmir; the facts show that there have been no communal disturbances in Kashmir; that, on the contrary, there has been complete harmony; that far from revolting against India, Kashmir has at every stage turned to India for help and support. That apart, no disturbance or trouble in Kashmir would justify any intervention by Pakistan since what happens in Kashmir is entirely India's domestic affair.

PAKISTAN'S AGGRESSION REAL ISSUE

I think it is necessary to re-emphasize what the issue really is. The issue is not the status of Kashmir or the question of the accession of Kashmir to India. The issue is Pakistan's aggression on Indian territory. The aggression which was committed in 1947 continues till today. If the Security Council wishes to discuss Kashmir at all, it should discuss the question of Pakistan's aggression and find ways and means of getting Pakistan to vacate the aggression. A burglar who breaks into a house and takes possession of the ante-room cannot ask the owner of the house to prove his title to the remaining portion of his property while he coolly squats in the part which he has unlawfully occupied. But during the eighteen years that the Kashmir question has been before the Security Council, most members of the Council have turned a blind eye to the patent fact of Pakistan's aggression. It is that attitude,

coupled with the indulgence that the allies of Pakistan have shown to it in the Council, that has been the greatest obstacle to the solution of this question which has bedevilled relations between ourselves and our neighbour.

India hopes that even at this late stage, the Security Council will give careful thought to the matter and give an answer to these questions :

(1) How is it that Pakistan occupies two-fifths of Kashmir ? By what right ?

(2) Has it any legal right to be in possession and control of any part of Kashmir territory ?

(3) Has it any right to negotiate and give away any part of Kashmir to China, as it has admittedly done, having given away 2,000 square miles ?

(4) What steps should the Council take to make Pakistan vacate its aggression ?

II. ACCESSION AND AFTER

The Princely States' Accession—the Background

It is beyond doubt that, legally and constitutionally, when the Ruler of Kashmir executed the Instrument of Accession to India, and Lord Mountbatten, the then Governor-General of India, accepted the Instrument, the whole of Kashmir became an integral part of the Union of India.

It is necessary to look at the political and constitutional position prevailing in the sub-continent of India on the eve of Independence. There was the so-called 'British' India over which the United Kingdom exercised complete sovereignty. There were also more than 560 Princely States which were semi-independent and which were protected by the United Kingdom by a doctrine known as paramountcy. The meaning of this doctrine was that the King of England and Emperor of India was the paramount lord as far as these princes were concerned and, in return for the fealty pledged by them, the King-Emperor gave them protection.

When the Indian Independence Act was passed by the British Parliament, British power was transferred to the people of India as far as British India was concerned and Britain also put an end to paramountcy, leaving it to the princes to arrive at such arrangements as they thought proper with the Governments of India and Pakistan.

At the same time, India was partitioned, a part of the country seceding to constitute itself into Pakistan.

But the present Government of India was the successor government to the government of the United Kingdom in India. Pakistan was a new State which came into existence.

It was also provided that it was open to every Princely State to accede either to India or to Pakistan. The law did not provide that the Instrument of Accession could be conditional. Once the accession was accepted either by the Governor-General of India, or of Pakistan, the particular Princely State became an integral part of one or the other of the two Dominions. It is significant to note that there was no provision for consulting the people of the Princely State concerned. Nor was there any provision that the accession had to be ratified by ascertaining the wishes of the people of the acceding State. Leaving aside for a moment the question of Jammu and Kashmir, several Princely States under this law acceded to India or Pakistan. It has never been suggested either by India or Pakistan that these accessions are, in any way, incomplete or require some action to be taken before they become conclusive. It is only in the case of Jammu and Kashmir that Pakistan has shown such laudable zeal in the sacred cause of democracy and self-determination !

It has also to be remembered that the partition of India was confined to British India and that in drawing the lines of the frontier, questions of Muslim majority provinces were taken into consideration only with regard to British India. There was no question whatsoever with regard to the religious complexion of the population of the Princely States. The question whether any Princely State should accede to India or Pakistan was left to the determination of the Ruler of

the State. Pakistan has often put forward a proposition that the State of Jammu and Kashmir by reason of its large Muslim majority and of the fact that Pakistan came into existence as a Muslim State should naturally form part of Pakistan. This is a wholly erroneous view of the legal and constitutional position.

The British Government had made it quite clear that the partition was only of British India and that this principle did not apply to those States, such as Kashmir and several hundred others, which were ruled by Indian princes. I quote from the British Government's announcement of June 3, 1947, which said :

> "His Majesty's Government wish to make it clear that the decisions announced above (about partition) relate only to British India and that their policy towards Indian States contained in the Cabinet Mission's Memorandum of May 12, 1946, remains unchanged."

The Cabinet Mission's memorandum reads as follows :

> "His Majesty's Government will cease to exercise the power of paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States on the one side and the British Crown will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or, failing this, entering into particular political arrangements with it or them."

Provision for accession was made in the Government

of India Act of 1935 as adapted under the Indian Independence Act of 1947 :

> "An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof."

These were Acts of the British Parliament which created the Dominions of India and Pakistan. None of the provisions of these Acts can be questioned, at least by India, Pakistan or the United Kingdom, which were parties to this agreement.

It was entirely for the Ruler of Jammu and Kashmir to decide, taking all factors into consideration—the factor of contiguity, the factor of communications, the factor of economic ties and others—whether it would be beneficial for the State to be part of one Dominion or the other. The question of religion did not come into play at all. As a matter of historical fact, although the communal question assumed a large and unfortunate proportion in British India and was the platform on which the Muslim League based its policy, the people of the Princely States, particularly Kashmir, although they suffered from many other disabilities and infirmities, did not suffer the disastrous consequences of religious hatred or intolerance.

Therefore, there is no substance in the suggestion that the accession of Jammu and Kashmir was not complete and absolute because the people of that State had not been consulted or been given the opportunity to express their choice. It is clear that international law does not require that a treaty concluded by the Ruler of a State, and with the mutual consent of the contracting parties, a treaty which is otherwise valid and bind-

ing, should be referred to the will of the people before it takes effect. There is no doubt, and I do not think that Pakistan can dispute it, that the Government of the Maharaja of Kashmir was recognized by Pakistan. It was with this Government that Pakistan concluded a standstill agreement by the exchange of telegrams on August 12 and 16, 1947. At the time the Government of Pakistan had not questioned whether the Government of the Maharaja was capable of expressing the will of the people nor had it doubted the validity of the agreement. It is thus clear that international law does not require that the party to an agreement should look behind a recognized Government with whom it contracts to see that the agreement has been arrived at by prior consultation with the people. In fact, as I shall mention later, the accession was also supported by the largest political party in Kashmir.

Events Leading to Accession of Jammu and Kashmir to India

I shall briefly deal with the events and developments in Jammu and Kashmir and see whether these have, in any way, affected the legal and constitutional position. They have not, in the slightest degree. Jammu and Kashmir became an integral part of India when the Instrument of Accession was signed and accepted. and from that day till today it continues to occupy the same position *vis-a-vis* the Indian Union and no question can possibly arise of annexing Kashmir or further integrating it into the Indian Union. You cannot make more complete what is already complete.

Unlike most of the rulers who had acceded to India or Pakistan before August 15, 1947, the Ruler of

Kashmir did not make up his mind. Pending a decision on accession, he asked for a standstill agreement both with India and with Pakistan in regard to communications, supplies and post and telegraph arrangements which had always been interlinked with British India. Pakistan concluded the standstill agreement, but before a standstill agreement with India could be concluded, Pakistan cut off communications and stopped the supply of essential commodities, thereby putting undue pressure on Kashmir.

When this pressure failed, armed invasion by nationals of Pakistan and tribal raiders followed. The Ruler's appeals to Pakistan were of no avail. The raiders caused havoc in different parts of Kashmir. The Kashmir State troops were incapable of offering effective resistance to such a large body of raiders. Events moved with great rapidity and the threat to the Valley of Kashmir became grave.

Unable to prevent the raiders from committing large-scale killings, loot and arson, the ruler requested the Government of India that the State of Jammu and Kashmir should be allowed to accede to the Indian Dominion.

An appeal for help was also simultaneously received by the Government of India from the National Conference, which was the largest popular organization in Kashmir and which had fought for the people's rights and agitated for freedom of Kashmir from the rule of the Maharaja. The Conference also supported the request for the State's accession to India.

Sheikh Abdullah, who was then the leader of the

Jammu and Kashmir National Conference, had this to say :

> "When the raiders were fast approaching Srinagar we could think of only one way to save the State from total annihilation, by asking for help from a friendly neighbour. The representatives of the National Conference, therefore, flew to Delhi to seek help from the Government of India but the absence of any constitutional ties between our State and India made it impossible for her to render any effective assistance in meeting the aggressor..... Since the people's representatives themselves sought an alliance, the Government of India showed readiness to accept it. Legally, the Instrument of Accession had to be signed by the Ruler of the State. This the Maharaja did."

Pakistan has to accept that evidence, both as to the consultation with the people of Kashmir and also as to the fact that India did not put any pressure on Kashmir to accede to it.

As I have already stated, the Governor-General, Lord Mountbatten, accepted the Instrument of Accession. In answer to a letter of the Prime Minister of India, dated December 22, 1947, requesting Pakistan not to give aid or assistance to the raiders and not to prolong the struggle, the Prime Minister of Pakistan, on December 30, 1947, replied :

> "As regards the charges of aid and assistance to the invaders by the Pakistan Government, we emphatically repudiate them. On the contrary, the Pakistan Government have continued to do all in their power to discourage the tribal movements by all means short of war."

India the Original Complainant before UN

On January 1, 1948, India approached the Security Council and, in our letter of that date, we stated :

> "Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such an assistance which is an act of aggression against India."

It is an extremely significant fact, which is often overlooked because so much time has passed since that event, that it was we who were the complainants before the Security Council, and that it was we who complained of aggression by Pakistan. On January 15, 1948, the Foreign Minister of Pakistan again emphatically denied that the Pakistan Government was giving aid and assistance to the invaders or had committed any act of aggression against India. On the contrary, the Foreign Minister stated, his Government had continued to do all in its power to discourage the tribal movement by all means short of war. He stated that the allegations made by the Indian Government that the Pakistan Government was affording aid and assistance to tribal forces, or that these forces had bases in Pakistan territory or were being trained by the Pakistan Army, were utterly unconfirmed. Pakistan never contended that India had no right to be in Kashmir.

This categorical denial by Pakistan of being behind

the tribal raid is the most important and significant aspect of the whole Kashmir issue. It is significant that, at that stage, Pakistan never tried to justify its presence in Kashmir or to claim any right to be there. Pakistan was obviously quite aware of the fact that its presence in Kashmir was contrary to international law and was fully conscious of the illegality of its action. That is why Pakistan could not admit its presence in Kashmir and that is why there was a total and straight denial of its presence. Incidentally, these facts clearly show that the plea now put forward that Pakistan went to Kashmir in support of a liberation movement is clearly an after-thought, designed to create a false moral justification for its invasion of Kashmir. Subsequent admissions by Pakistan have made it clear that this was not merely an equivocation but a deliberate falsehood.

In its reply, on January 15, to the Government of India's complaint dated January 1, 1948, Pakistan cast doubts on the legality of the accession of Jammu and Kashmir to India by suggesting that the accession had been obtained by fraud and violence. It is clear that in law, if fraud and violence were not established as vitiating it, the accession was perfectly legal and binding. On the question of fraud and violence, it may be stated that Lord Mountbatten had told the Maharaja of Kashmir on behalf of the Government, that "you may accede to Pakistan if you wish and we will not take it as an unfriendly act." It is also an admitted fact that not a single Indian soldier was sent to Kashmir to fight against the raiders before the accession. If any violence was used at all against the State of Jammu and Kashmir and the Maharaja, it was by Pakistan. If the Ruler of Jammu and Kashmir was forced to accede to India, it

was not because violence was used by India but because it was used by Pakistan and therefore, strangely enough, the fraud and violence which Pakistan was complaining of was fraud and violence used not by India, but by itself, and it does not require a very deep knowledge of law to understand that a party cannot challenge or vitiate the legality of a contract by pleading its own unlawful acts.

On behalf of Pakistan, it has been argued that India obtained the signature of the Ruler on the Instrument of Accession at a time when the people of Jammu and Kashmir had risen in rebellion against the Ruler and had ousted his authority from the State. This is a complete and utter distortion of facts. It was the tribal raiders and Pakistan nationals, aided and abetted by the Pakistan Government, who carried fire and sword into Kashmir, whose fate is now of such concern to Pakistan, and compelled the Ruler to turn to India in the hour of extreme peril. Let us once again turn to Sheikh Abdullah, whose testimony is of great importance because it is the testimony of a witness who is speaking about contemporary events :

> "When for the first time the people of Srinagar saw the incoming planes from India and the tanks of the Indian Army passing through the streets here, their disappointment and anguish was turned into joy and happiness. The people here, Muslims, Hindus and Sikhs, heaved a sigh of relief, knowing that their honour and dignity could now be safeguarded. We must not forget that time."

Considerations of religion did not enter into the legal validity of the Instrument of Accession executed by the Ruler of Kashmir. Pakistan has relied on the

instance of Junagadh. In that case, the accession would have contravened the principle of contiguity, apart from the fact that the large majority of the people of Junagadh, it is beyond dispute, were totally opposed to the Ruler's acceding to Pakistan. You have only to look at the map of that part of India to realize how absurd Junagadh's accession to Pakistan would have been. In the case of Kashmir not only have we a legal, unconditional accession, but we have also the principle of contiguity satisfied, and even if we were, at the time of accession, to take into consideration the wishes of the people of Kashmir, there can be no doubt that the National Conference, which, as I have already pointed out, was the party representing the large majority of the people of Kashmir, were clearly and emphatically in favour of accession to India. In the case of Hyderabad and Jodhpur also, the principle of contiguity applied and the people of these States were in favour of accession to India.

Mr. N. Gopalaswamy Ayyanger said this in the Constituent Assembly of India on May 27, 1949 :

> "The accession was offered by the Maharaja and it was accepted by the Governor-General of the time . . . It is an absolutely unconditional offer . . . The accession is complete."

Pakistan has often spoken of a despotic Maharaja having signed the Instrument of Accession. Are all the rulers of States who acceded to Pakistan paragons of democratic virtue ?

Pakistan's Belated Admissions

When the United Nations Commission for India and Pakistan visited Karachi in July 1948, Pakistan could

no longer keep up the story that it had a blameless record as far as the invasion by the raiders was concerned, and Sir Mohammad Zafrullah Khan informed the Commission that three regular Pakistani brigades had been fighting in Kashmir territory since May 1948.

It is in this context that the UNCIP resolutions of August 13, 1948 and January 5, 1949 which we accepted—and these are the only two resolutions, apart from the Security Council resolution of January 17, 1948, to which we have agreed—have to be understood and appreciated. The very foundation of these resolutions was that the presence of Pakistan in parts of Jammu and Kashmir was illegal, and that it must withdraw its troops and vacate the aggression against India. It is clear from the wording of paragraph 2A(1) of the resolution of August 13 :

> "As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was reported by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State."

It was only on Pakistan's complying with this essential condition that the possibility of holding a plebiscite in Kashmir could arise. It is clear that the Security Council could not possibly have suggested to India the holding of a plebiscite so long as a gross illegality perpetrated by Pakistan and a deliberate violation of international law remained unrectified. The Security Council could not possibly countenance a naked aggression by one country against another.

This was in 1948 and we are in 1965. Pakistan's troops still remain. Not only do they remain; they are

used to invade us, to attack us, to commit inhuman cruelties upon the citizens of Kashmir.

The next paragraph of the resolution of August 13, 1948 relates to India :

"Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order."

Clearly, India is responsible for law, order, security and defence of Kashmir.

Pakistan's Opportunistic Attitude

I may refer in this connection to a letter that appeared in *The Observer* on June 17, 1963, by the late John Strachey, Labour M.P. in Britain, who had visited both India and Pakistan in a Parliamentary delegation. Addressing the Editor of *The Observer*, he wrote :

> "You complained that India still keeps a large part of her army on the Pakistan frontier. Before going to Pakistan last month this seemed to me also to be an indefensible deployment of India's forces but during the week in which my colleagues were in Pakistan, a Pakistan Cabinet Minister declared publicly that the Kashmir question must be settled immediately by peaceful means or otherwise. Another Pakistan public man in a key position assured us that if China attacked again he and his friends would not miss the opportunity this time but would immediately attack India."

This clearly shows that Pakistan has all along intended to use violence against our country when the opportunity arose.

India today is, perhaps, the only country which can stand up to Chinese expansion and aggression. If India failed, there would be nothing to control the Chinese forward policy. It is, therefore, not only in the interest of India itself, but also in the interest of peace, that India should be strong. We are very grateful for the aid that we received from friendly countries. But the whole purpose of this would be completely nullified if India became domestically weak. No country can be internationally strong if it does not also have domestic strength. The domestic strength of India depends upon its secularism, upon the vital necessity of the different communities that reside within India living in peace and harmony.

Kashmir is an integral part of India. It is a member of the Indian Federation, and it is as much our duty, our responsibility and our privilege to defend Kashmir and look after its law and order as it would be if it was Calcutta, or Bombay, or Delhi, or any other part of India.

Pakistan Wants to Weaken India

Pakistan does not want India to be strong; it wants to weaken India, both internationally and domestically. Its recent flirtations with China are clear evidence of this fact. In this context, Kashmir assumes great importance. Pakistan has been complaining of India's changing the *status quo* with regard to Kashmir, and yet it has given away to China, in the border agreement, over 2,000 square miles of Kashmir. Pakistan

has no right or title to it, and yet it has been generous at another country's expense. If ever there was a gross change of *status quo,* it has been by Pakistan. But, apart from the fact that legally and constitutionally Kashmir is part of India, apart from the fact that we do not subscribe to the theory that Hindus and Muslims are two nations, and that Kashmir is the symbol and guarantee of our secularism, Kashmir has now assumed vital importance because of the continuing menace of China. A mere glance at the map of India will be sufficient to illustrate this.

Pakistan A Continuing Aggressor

It is often forgotten that when Pakistan approaches the Security Council, it does so as an aggressor which has not vacated its aggression. Pakistan has been guilty of gross contempt of this august body, and it has no right to be heard till it comes with clean hands. It has not only not washed its hands, and not only tries to justify its aggression, but seeks to challenge the legal validity of an accession which has been accepted by the UNCIP and on the basis of which Pakistan's presence in Kashmir has been held to be illegal and contrary to international law.

Memories are so short that I am sometimes surprised that Pakistan should be permitted to reverse the roles of itself and India before the Security Council. It comes in the innocent garb of an aggrieved party making charges against us as if we were the aggressors. Throughout this Kashmir controversy, which in all conscience has been sufficiently long and protracted, Pakistan has continued to be an aggressor. Even today it is guilty of continuing aggression and it has no *locus standi*

whatsoever to make any complaint with regard to India's defensive actions in an integral part of itself.

It has been said that, notwithstanding the accession, assurances were given by several eminent Indian authorities that the wishes of the people of Jammu and Kashmir would be consulted with regard to that State's forming part of India. Those assurances were given always in the context of the vacation of Pakistani aggression and withdrawal of Pakistan from Kashmir as a condition precedent. The letter of Lord Mountbatten, then Governor-General of India, dated 27 October, 1947, a separate communication to the Ruler not forming part of the Instrument of Accession, itself says :

> ". . . . it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people."

Note the words : "as soon as law and order have been restored in Kashmir and her soil cleared of the invader."

Even today, eighteen years later, the soil of Kashmir is not purged of the invaders who continue unlawfully to hold two-fifths of the State. Every time the authorities in India, the Prime Minister or someone else, talked of ascertaining the wishes of the people, such remarks were always in the context of our demand for Pakistan's withdrawal from Kashmir.

A plebiscite is only a machinery for ascertaining the wishes of a people. There is nothing sacrosanct about it. There are other methods which are equally efficient. The British Government has, in the last twenty years, transferred power to a large number of its colonies, but it has never thought of ascertaining the wishes of these

colonies by holding a plebiscite. In India itself no plebiscite was held to determine either whether the people of the sub-continent of India wanted freedom or whether the majority of Muslims living in the country wanted partition. The United Kingdom came to the conclusion that independence should be given and that the country should be partitioned because it was satisfied that the Indian National Congress on the one hand and the Muslim League on the other represented the people on these two issues. In Jammu and Kashmir the National Conference as a party represented the overwhelming majority of the people of that State, and, as I have already pointed out, it fully supported the accession of Jammu and Kashmir to India.

India accepted the two resolutions of the UNCIP, namely, those of August 13, 1948 and January 5, 1949. Under these, a series of steps were contemplated to follow one after the other. The resolution concerning a plebiscite, namely, that of January 5, 1949, was subsidiary and supplementary to, and an elaboration of Part III of the resolution of August 13, 1948, if and when that Part was reached. It was like an architect's design and a blueprint and the January 5, 1949 resolution could spring to life only if the August 13, 1948 resolution was fully implemented.

UN Commission's Proposals—the Background

During the discussions between the United Nations Commission and the Prime Minister of India regarding the Commission's plebiscite proposal of December 11, 1948, which later became the resolution of January 5, 1949, the Prime Minister of India emphasized :

"...firstly that, if the Government of India were to accept the Commission's plebiscite proposals, no action could be taken in regard to them until Parts I and II of the Commission's resolution of August 13 had been fully implemented; secondly that, in the event of Pakistan not accepting these proposals, or having accepted them, of not implementing Parts I and II of the resolution of August 13, the Indian Government's acceptance of them should not be regarded as in any way binding upon them."

Dr. Lozano, Chairman of the United Nations Commission, accepted the points made by the Prime Minister of India—paragraphs 2 and 3 of Aide Memoire 1, S/1196.

India itself offered, not as a part or pre-condition or post-condition of accession, but unilaterally to the people of Jammu and Kashmir, that after the soil of Kashmir was cleared of the invaders and law and order had been restored, the wishes of the people would be ascertained. It is in this limited sense that accession was said at that time to be subject to the wishes of the people. This did not and could not affect the legality of accession, which was absolute. The Indian Independence Act of 1947, which surely Pakistan would not repudiate, does not speak of conditional accession or any right of secession of a constituent State. Does the Act contain any provision even remotely contemplating partial, temporary, inchoate, or conditional accession? Are there any words in the relevant provisions of the Act dealing with accession which are other than plain, straightforward and unambiguous?

The Prime Minister of India reaffirmed the same

position while speaking in Parliament on August 8, 1962 :

> "All the States in India acceded in July or August or later that year (1947) on these three basic subjects—foreign affairs, communications and defence. Can anybody say that accession of any State was not complete in August or September or later in 1947 because it came in only on these three subjects ? Of course not. It was a complete accession in law and in fact. So the accession of Jammu and Kashmir was complete in law and in fact on a certain date in October... There the matter rests and it is not open to doubt or challenge."

Therefore we have never changed our position. Our position has remained the same from 1947 until today.

The two resolutions which we had accepted have become obsolete. How else can one characterize a resolution which was adopted eighteen years ago and which has not been acted upon by Pakistan ? It is obsolete in the sense that its very bottom has been knocked out by the conduct of Pakistan itself.

Pakistan has tried to get rid of those inconvenient facts by suggesting that they are irrelevant, because these events happened prior to the arrangement arrived at between India, Pakistan and the Security Council. That is a total misreading of the UNCIP resolutions. These resolutions were conditional and the condition was the vacation of aggression by Pakistan, which condition was not satisfied and has not been satisfied until today. Pakistan finds it difficult to explain its unlawful presence in Kashmir. It has sought to dispose of this inconvenient question by saying that : "The controversies

which existed before the acceptance of an agreement cannot be revived; once the agreement is reached, you cannot revive the controversy which led to the agreement."

It is a strange argument that because we had agreed to a compromise formula on certain conditions, the compromise becomes sacrosanct even if the conditions were not satisfied. It would indeed be a strange situation if one could not discuss tentative plans without being bound by them for all time. How could then one carry on negotiations ? In the course of discussions many offers and suggestions may be made. These offers become binding if they are accepted. If they are not accepted, they terminate. If an offer is made and it is not accepted, or not implemented, it cannot stand for ever.

At no time did we abandon our sovereignty over the State of Jammu and Kashmir, and we have never agreed to any resolution which even by implication questioned this sovereignty. We have taken pains to see that this basic position adopted in the UNCIP resolutions of August 13, 1948 and January 5, 1949 is not departed from. We were naturally not prepared to modify these resolutions which had been accepted by both parties, particularly as the suggested modifications were only in favour of Pakistan.

August 13, 1948 Resolution Obsolete

The resolution of August 13, 1948 has become obsolete and the bottom has been knocked out of it by the conduct of Pakistan itself. May I briefly enumerate some of the major violations of the terms of this resolution by Pakistan ?

First, continuing presence of Pakistan forces and

Pakistan personnel in Kashmir; since August 5, 1965 this has been forcibly extended even beyond the cease-fire line of January 1, 1949.

Second, introduction of additional military equipment into occupied territory; massive use has been made of this recently.

Third, construction of airfields in occupied territory, thus creating bases for attack against India endangering its security.

Fourth, consolidation and incorporation of the occupied area of Jammu and Kashmir into Pakistan.

Fifth, using its membership of military pacts to increase Pakistan's military potential in Kashmir, and to strengthen the so-called "Azad Forces", officered, trained and equipped by Pakistan.

Sixth, occupation of northern areas by Pakistan.

Seventh, continuous threats of force and the launching of a well-planned attack, first disguised and later blatantly, which dealt a death-blow to the cease-fire line of January 1, 1949.

Eighth, sustained organizing and financing of subversion and sabotage in Jammu and Kashmir. Almost every day in Kashmir there are instances of subversion and sabotage organized and financed from Pakistan.

Ninth, having no common border with the People's Republic of China, Pakistan has nevertheless negotiated with it Kashmir's border with Sinkiang, thus disrupting the territorial unity of the State of Jammu and Kashmir, giving away over 2,000 square miles of Kashmir to China in a so-called treaty "rectifying" the border between Pakistan and China. Pakistan has no border with China. The only border is our border, the border of Kashmir. They are in unlawful possession of that part

of Kashmir and they try to give away somebody else's property.

Basis of UN Resolutions is Pakistan's Vacation of Aggression

Therefore, if I may sum up, India's position on Jammu and Kashmir is clear and unambiguous. The two resolutions of the UNCIP dealing with the plebiscite were conditional and contingent on Pakistan vacating its aggression and the condition has not been complied with. It is really more than a condition. It was the very basis on which these two resolutions were founded, and the condition not having been complied with and the basis having disappeared, these resolutions are no longer binding on us. In any case, by the passage of time and various factors intervening, to which I shall draw attention a little later, they have become obsolete.

Three General Elections in Kashmir

When the possibility of a plebiscite was first envisaged, no elections had been held in Kashmir. Subsequent to that, however, Kashmir has had three general elections with universal adult franchise, and at all these three elections a party has been returned to power which firmly and emphatically supports Kashmir's integration with India. The last election, in 1962, was held under the Indian electoral law and supervised by the Indian Election Commission.

The whole of India has had three general elections. Even our worst enemies have not suggested that these elections were rigged or that they were not secret and free. It was the ballot box that determined which member should be elected. That the elections were free is

evident from the fact that sometimes in some States parties have been returned to power which were opposed to the majority party in India, the Indian National Congress. As in the rest of India, the elections held in the State of Jammu and Kashmir have been free elections.

Pakistan's perpetual harping on a plebiscite in Jammu and Kashmir is not due to its faith in democratic principles. I should have thought that democracy, like charity, begins at home, and before Pakistan preaches to us how we should ascertain the wishes of the people of a part of our country, it should first make at least a beginning in establishing democratic institutions at home. I need hardly say that since its existence it has never sufficiently trusted its own people to permit them to participate in a general and direct election for the creation of legislative and parliamentary bodies.

Pakistan's President has repeatedly stated that the people of Pakistan are not fit to exercise such democratic rights and, after eighteen years of independence, the people of Pakistan are still being educated in basic democracy, which I need hardly say is a very diluted form of democracy. The real reason for insisting on a plebiscite is to try and see whether it cannot inflame communal passions in Kashmir by making the inhabitants of that State believe that their religion is in danger, and bring about the recurrence of the terrible events of the partition of India in 1947—bloodshed, migrations, untold human misery.

Pakistan's Strange Objections

From time to time, Pakistan has alleged so-called attempts to further "integrate" Kashmir with India. In

the first place, as Jammu and Kashmir is an integral part of India, what we have been doing is adjusting our relations with a constituent State of the Indian Union. It is on a par with the Congress of the United States dealing with one of its fifty federated States. Therefore, the question raised by Pakistan is purely a domestic matter with which only India is concerned and in respect of which Pakistan has no right to intervene or interfere and which has been specifically excluded under the Charter from the jurisdiction of the United Nations.

But, even so, let us see what we have done which has roused the wrath of Pakistan. I may point out that Part XXI of our Constitution deals with provisions with respect to the State of Jammu and Kashmir. There are also other articles in that Part which deal with other States in the Indian Union, such as Andhra Pradesh, Punjab and Maharashtra. These provisions in turn are intended to be only temporary and transitional. These will continue to apply so long as the necessity for their application continues. When the necessity disappears, these provisions will be deleted and the provisions of the Constitution which apply to all the States would also apply to the States with regard to which special arrangements have been made under this Part. It may be pointed out that the Centre's powers have constantly been modified or extended within the framework of the Constitution, so that the relationship between the Centre and the Constituent Units has been changing. These changes which occur at various intervals are part of the larger process of the organic growth of the Union of India.

One proposal complained about was that the representatives of the State of Jammu and Kashmir in the Indian Parliament were thereafter to be elected directly

by the people of Kashmir and not appointed on the recommendation of the Kashmir Legislature. What is wrong in this ? One would have thought that Pakistan, with its professed solicitude for the right of self-determination of the Kashmiris, would prefer the direct election of their representatives to the Indian Parliament.

Another objection was to certain amendments to introduce more progressive labour legislation. India is a member of the ILO and has adopted a number of ILO Conventions. The Indian labour legislation is in keeping with these Conventions. The need for such labour legislation in Kashmir was not felt for long, since there was hardly any organized factory labour in Kashmir. When certain mineral resources were discovered and mining industry started, it became essential to introduce modern labour legislation to prevent abuses. We are bound by the ILO Conventions and we cannot ignore our obligations with regard to any part of our territory.

Similarly, what can be the objection to the Government of India sharing with the State Government concurrently the power to make laws in respect of medical and other professions when the State Legislature agreed to this change and there was a formal request by the duly elected Government of Jammu and Kashmir ? We feel that all-India medical and other services lead to progress and increased efficiency and the co-ordination of professional standards in different parts of India. So all these changes are for the benefit of the people of Kashmir. It is not a suppression of any human rights. If the Prime Minister of India used the expression "the gradual erosion of Article 370", it was a perfectly correct expression because by its very nature Article 370 is temporary and must gradually fade away and disappear.

Does Pakistan expect that while it continues its aggression, we should sit with folded hands and do nothing whatever in Kashmir to improve the lot of the people ? Every action we have taken has been in favour of the amelioration of the conditions in Kashmir, in favour of modernizing the State.

Let us look at the results.

Kashmir's Progress as Part of India

The revenue of the State of Jammu and Kashmir in 1947 was $ 5.5 million. In 1959-60 it was $ 23.5 million. The *per capita* income in 1950-51 was $ 38 and in 1959-60 it was $ 48. The food production prior to 1951 was 0.3 million tons and in 1961 it was 0.5 million tons. The electricity produced in pre-1951 was 4,360 kilowatts and in 1961 it was 16,000 kilowatts. The number of factories in 1947-48 was 44 and in 1961 it was 138. The roads per hundred square miles prior to 1951 were 2.5 miles and in 1961 40 miles. The number of pupils in primary schools prior to 1957 was 65,000; in 1961 it was 197,000. The number of high and higher secondary schools in 1947-48 was 52; in 1961 it was 262. The figure of literacy was 6.6 per cent before 1947; in 1961 12 per cent. The number of hospitals and dispensaries in 1947-48 was 89; in 1961 it was 349. The average life expectancy before 1951 was thirty-two years; in 1961 it was forty-seven years. What a distressing picture of a country, to quote a phrase used by the Pakistan Foreign Minister, "under the colonial domination of India" !

One thing about which we are particularly proud is that Kashmir has always been open to any visitor from any country and of any nationality. Every year seventy

to eighty thousand tourists, including a large number of foreign tourists, have been coming to this most beautiful spot. The number of tourists in pre-1951 was 27,207; in 1962 it was 93,000. We have nothing to hide in Kashmir, nor are we ashamed of anything we are doing there.

III. SHEIKH ABDULLAH'S TESTIMONY

After committing aggression, as an afterthought, Pakistan trotted out the plea that her troops had entered Kashmir to help the Muslims who were engaged in a freedom movement. This is patently false. Let the true nature of Pakistan's actions be exposed by the statements of someone whom Pakistani propagandists are quite fond of quoting—but only when it suits them to do so, even out of context. I am referring to Sheikh Abdullah.

Whenever convenient, Pakistan has sung paeans of praise in favour of Sheikh Abdullah. We have been told that Sheikh Abdullah is the "Lion of Kashmir" and leader of Muslims there. It is dangerous to have short memories. May I quote what Pakistan's own Prime Minister, Liaquat Ali Khan, said about Sheikh Abdullah in 1947 :

> "Speaking to pressmen at Srinagar on November 10, 1947, during Pandit Jawaharlal Nehru's visit to that place, Sheikh Abdullah was reported to have observed that there may not be a referendum at all... this Quisling, who has been an agent of the Congress for many years, struts about the stage bartering away the life, honour and freedom of Muslims of Kashmir who are rotting in gaol."

This statement was made by Mr. Liaquat Ali Khan on November 16, 1947. In other words, when it suits them, Sheikh Abdullah is a Quisling—and, when it suits them, he is a hero and the "Lion of Kashmir" and the leader of the Muslim community. I do not know when the tune will change again.

Again, in a telegram dated 25 November, 1947 to the Prime Minister of India, the Prime Minister of Pakistan said :

> "I am extremely sorry that you still support Sheikh Abdullah, who you know is a Quisling and a paid agent, to disrupt the Mussulmans of Kashmir."

Let me say one further thing about what Sheikh Abdullah has been saying. The opinions of any person, however distinguished or eminent, cannot alter or affect the question of the status of a territory. It is not a matter of opinion; it is a matter of law. If two people get married and the marriage is valid in law, the status of these two people cannot be altered by a thousand opinions suggesting that they are living in sin. But if Sheikh Abdullah's opinions are to be relied upon, it is more to the point to ascertain what his opinions were from 1947 to 1949 when the question of the accession of Kashmir arose. According to the Evidence Act which is in force both in Pakistan and in India, and even according to commonsense, it is only statements made at or about the time, that are admissible evidence. Statements made long after the event have not only no evidenciary value but are not evidence at all.

In 1948 Sheikh Abdullah, as the head of the Emergency Administration of Kashmir, was a member of the Indian delegation to the Security Council, and this is what he had to say before the Security Council :

> "I was explaining how the dispute arose—how Pakistan wanted to force this position of slavery upon us. Pakistan had no interest in our liberation —let me repeat—Pakistan had no interest in our liberation or it would not also have opposed our freedom movement. Pakistan would have supported us

when thousands of my countrymen were behind bars and hundreds were shot to death." (*241st meeting, page 21*).

He is referring to what happened before 1947. Whereas India supported the Kashmir liberation movement, this is what Sheikh Abdullah says about the action of Pakistan when the people of Kashmir were fighting for their freedom against the Maharaja's rule.

Sheikh Abdullah stated :

"The Pakistani leaders and Pakistani papers were heaping abuse upon the people of Kashmir who were suffering these tortures.

"Then, suddenly, Pakistan comes before the bar of the world as the champion of the liberty of the people of Jammu and Kashmir." (*Ibid.*)

"..I had thought all along that the world had got rid of the Hitlers and Goebbels, but, from what has happened and what is happening in my poor country, I am convinced that they have only transmigrated their souls into Pakistan." (*Ibid., page 22*)

According to Sheikh Abdullah, the reign of the Hitlers and Goebbels has not passed; the reign still continues in other parts of the world.

Invasion By Raiders

Sheikh Abdullah gives a graphic description of Pakistani aggression and the invasion by the raiders supported and backed by the Pakistani Government. We hear a great deal from Pakistan about treating Kashmir as a human problem. But let us see how Pakistan treated the people of Kashmir in 1947-48. I quote from the official records of the Security Council :

"When the raiders came to our land, massacred

thousands of people—mostly Hindus and Sikhs, but Muslims too—abducted thousands of girls, Hindus, Sikhs and Muslims alike, looted our property and almost reached the gates of our summer capital, Srinagar, the result was that the civil, military and police administration failed." (*241st meeting, page 21*).

To the same effect but a little more emphatically, he stated in a Press statement issued on November 16, 1947 at Srinagar, as reported in *The Hindustan Times* of November 18, 1947 :

"These raiders abducted women, massacred children, they looted everything and everyone, they even dishonoured the Holy Koran and converted mosques into brothels, and today every Kashmiri loathes the invading tribesmen and their arch-inspirators who have been responsible for such horrors in a land which is peopled with an overwhelming majority of Muslims."

Again in a Press statement issued on November 19, 1947 at Srinagar and reported in *The Hindustan Times* of November 20, 1947, he said :

"...The invaders who came in the name of Pakistan to make us believe that they were true servants of Islam scorched our land, ruined our homes, despoiled the honour of women and devastated hundreds of our villages."

This is Sheikh Abdullah telling us what the Pakistan raiders, backed and supported by the Pakistan army and the Pakistan Government, did to the people of Kashmir. This is the human interest that Pakistan took in the people of Kashmir in 1947.

To go back to the record of the Security Council, Sheikh Abdullah said :

> "Under these circumstances, both the Maharaja and the people of Kashmir requested the Government of India to accept our accession." (*241st meeting, page 22*).

Note, it was not only the Maharaja but also the people of Kashmir who, when the land was invaded, when mosques were being desecrated and turned into brothels, turned to India and said, "Accept our accession."

And, again, from the records of the same meeting I quote Sheikh Abdullah, speaking in 1948 :

> "We should prove before the Security Council that Kashmir and the people of Kashmir have lawfully and constitutionally acceded to the Dominion of India, and Pakistan has no right to question that accession."

Can anything be clearer or more authentic than this ? He went on to say :

> "I refuse to accept Pakistan as a party in the affairs of the Jammu and Kashmir State; I refuse this point blank. Pakistan has no right to say that we must do this and we must do that." (*241st meeting, page 26*).

On June 18, 1948, at a Press interview in Delhi, Sheikh Abdullah said :

> "We, the people of Jammu and Kashmir, have thrown our lot with the Indian people not in the heat of passion or a moment of despair, but by deliberate choice."—This is self-determination.
>
> "The union of our people has been fused by the community of ideals and common sufferings in the cause of freedom. India is pledged to the principle

of secular democracy in her policy and we are in pursuit of the same objective."

In a broadcast from Radio Kashmir on July 1, 1952, he said : "Kashmir's accession to India is final."

The Kashmir Government's Bureau of Information issued an authorized version of Sheikh Abdullah's speech made in Jammu on April 12, 1952 :

> "The relationship existing between India and Kashmir which has been sanctified by the blood of countless martyrs was irrevocable and no power on earth could 'render us asunder'. We have chosen to remain with India of our own will and for the ideals for which Gandhiji laid down his life."

In his most authoritative pronouncement made in the Constituent Assembly of Jammu and Kashmir on August 11, 1952, Sheikh Abdullah said as follows :

> "It was also made clear that the accession of the Jammu and Kashmir State with India was complete in fact and in law to the extent of the subjects enumerated in this Instrument."—That is, the Instrument of Accession.

In another pronouncement made in the Constituent Assembly on August 19, 1952, he said :

> "We have no intention to secede from India. Everybody knows the conditions through which India and Pakistan were passing at the time of our accession to India. Our accession to India, as I have stated in my last speech, is complete."

The Indian Independence Act did not contemplate a provisional accession nor a conditional one and the accession did not require any ratification or consent of the people. The accession was complete and irrevocable as soon as the Ruler had executed the Instrument of

Accession and it had been accepted by the Governor-General of India. But after the accession, a Constituent Assembly was elected. The election was held under the auspices of Sheikh Abdullah himself who was the Prime Minister. Even while the Constituent Assembly was in session, an agreement was arrived at between the State Government of Jammu and Kashmir, of which Sheikh Abdullah was the Premier, and the Central Government, known as the "Delhi Agreement" which provided for more power being given to the Central Government than the original Instrument of Accession provided, which was restricted to the three subjects of defence, external affairs and communications, and this, the Delhi Agreement, was ratified by the Constituent Assembly.

So, the legal and constitutional position is perfectly clear : an accession which is absolute and irrevocable, accompanied (what was not necessary in law) by the consent of the people expressed through Sheikh Abdullah, who was the leader of the largest party in Kashmir, and followed by a ratification (again not necessary in law) through the Constituent Assembly.

Therefore, we have all the three facts here : first, the legal accession, which is complete and irrevocable; the consent given by Sheikh Abdullah as the leader of the party, which is not necessary in law but still was given; and finally, the Constituent Assembly, elected through adult suffrage when Sheikh Abdullah was Prime Minister, which ratified the Constitution.

It has been argued that the elections to the Constituent Assembly were not held on the specific issue of accession. This is an erroneous argument. The very purpose of the Constituent Assembly is to make a constitution, and the elections to the Constituent Assembly in Kashmir

were definitely and clearly held for that purpose. This is a normal practice in many countries in which Constituent Assemblies have been specifically elected and charged with the making of the Constitution of the States. This Constituent Assembly formulated a Constitution for the State of Jammu and Kashmir and duly ratified it. Section 3 of this Constitution states : "Kashmir is and shall be an integral part of the Union of India."

But even recently Sheikh Abdullah has made statements which are quite different from those cited by Pakistan. Naturally, Pakistan has selected only those which suit its purpose and omitted those which support the case which India has placed before the Security Council. Speaking at Batote on April 15, 1964, as reported by *The Hindustan Times* on April 17, 1964—as recently as that—Sheikh Abdullah said :

> "It is unfair to condemn me for positions I have not taken. Mr. Krishna Menon has, for instance, quoted a statement made by me fifteen years ago against an independent Kashmir and has suggested that I have retracted from that. I still stand by every word of the statement and in fact by all my commitments."

So even today, according to this, Sheikh Abdullah stands by all his commitments. Sheikh Abdullah went on to say :

> "I have no intention to disown my responsibility in leading Kashmir's accession to India in 1947. Nor do I repudiate my subsequent agreements with the Government of India which were intended to shape the State's relations with the Centre in accordance with the wishes of the people."

The Hindustan Times of April 10, 1964 reported that Sheikh Abdullah made it clear at his news conference earlier that a plebiscite was not the only method for ascertaining the wishes of the people of Jammu and Kashmir. He said that if the Government of India felt that a plebiscite would lead to trouble for the subcontinent, other methods must be explored to solve the problem amicably and democratically so that everybody is satisfied.

IV. THE LAST STRAW

The 4,000 to 5,000 raiders who invaded our country on August 5, 1965 were really part and parcel of the regular Pakistan army. They may have come in civilian garb, or dressed in any manner they liked, but the fact remains that they were part of the regular Pakistan forces.

This was the third invasion by Pakistan of India. The first was in 1947-48 when they attacked Kashmir, which legally and constitutionally was part of India; the second was in April 1965 when they committed aggression in Kutch; and this was the third invasion.

With regard to Kutch, on the intervention of the Prime Minister of the United Kingdom, we agreed to a truce and to certain cease-fire terms. I would like to draw attention to the preamble of that agreement which was concluded "in the confidence that this will also contribute to a reduction of the present tension along the entire India-Pakistan border..." But even while this agreement was being negotiated and before the ink was dry, Pakistan was already plotting and planning to invade India.

What was the grand design of Pakistan? Let me explain. When it sent these 4,000 or 5,000 infiltrators or invaders or armed men—call them what you like—Pakistan expected that there would be an uprising in Kashmir. They thought that the large Muslim majority in Kashmir would support them and that Kashmir would fall into their mouth like a ripe plum. What happened? The whole of Kashmir stood firmly behind the legally

constituted Government of that State and behind the Government of India. Kashmir is proud of its traditions of a multi-racial society, just as India is. In Kashmir we have Muslims, Hindus, Sikhs, Buddhists and Christians. All of them stood firm and resisted this aggression. They handed over the infiltrators to the Government and to the Security forces, and this grand design of Pakistan failed. Having failed in that, Pakistan started an attack in force with its regular army. That was the attack in the Chhamb sector on September 1, 1965.

There is a close similarity between this invasion by Pakistan and what happened in 1947 and 1948. If one looks at the record, one will find that "tribesmen" invaded Kashmir in October 1947 and Pakistan denied any complicity with these tribesmen. They said : We have nothing to do with it. Ultimately no less a person than Mohammad Zafrullah—later a member of the International Court of Justice—agreed and admitted that Pakistan had armed these tribesmen to invade Kashmir.

This is exactly what has happened now in 1965. But the similarity does not end there. We have a gruesome history of what the tribesmen did to Kashmir and to the people of Kashmir in 1947 and 1948, and there was a repetition this time. People have been killed; they have been tortured; mosques have been desecrated and bombed; and cruelty has been practised of a sort which it is difficult to believe can be done in modern times. It almost goes back to the days of Hitler, when such things were possible.

The *Times* of London, which is not known for its pro-Indian opinion, published a photograph of a mosque

in Kashmir bombed by these infiltrators. These are the protagonists of Islam; these are the brave soldiers of Islam who are going to the rescue of the majority of Muslims in Kashmir.

Pakistan talked about a "revolt" in Kashmir. But this is what appeared in an article by correspondent Donald Chesworth in the (Manchester) *Guardian* :

> "I was in the Kashmir Valley during much of the present trouble. . .
>
> "Pakistan has alleged that a popular uprising, nothing whatever to do with Pakistan, was the basis of the present armed conflict. At no time did I come across any evidence that there was a Kashmiri revolt, spontaneous or otherwise."

The London *Times*, one of the most responsible newspapers of the world, stated on August 11, in a dispatch from its correspondent in India :

> "There is no indication of any armed revolt by the people from the Indian side"—of Kashmir—"as announced by Pakistan Radio."

And the *Baltimore Sun*, a very responsible newspaper in the United States, on August 12, 1965, in a report from its correspondent describing a tour around Srinagar, said :

> "There is no evidence visible in or near this city to support reports from Pakistan of a popular uprising against India, nor of repressive measures against the population. . ."

The BBC television on August 16, 1965 stated : "Undoubtedly they hoped for much local support"—that is, the Pakistanis—"perhaps a popular uprising, but there has not been one. . ."

The *Sydney Daily Telegraph*, on August 13, 1965, stated in a write-up by its columnist Emery Barcs :

> "Whatever the basic rights or wrongs of the chronic Kashmir problem may be, Pakistan's claim that the present armed conflict there is a purely internal rebellion against India stretches credulity a trifle far."

In fact, Pakistan's claim was contradicted by all available evidence.

May I first of all refer to the U.N. Secretary-General's report, in document S/6651 of September 3, 1965 :

> "General Nimmo has indicated to me that the series of violations that began on August 5 were to a considerable extent in subsequent days in the form of armed men, generally not in uniform, crossing the CFL from the Pakistan side for the purpose of armed action on the Indian side. This is a conclusion reached by General Nimmo on the basis of investigations by the United Nations Observers, in the light of the extensiveness and character of the raiding activities and their proximity to the CFL, even though in most cases the actual identity of those engaging in the armed attacks on the Indian side of the Line and their actual crossing of it could not be verified by direct observation or evidence."
>
> (*S/6651, para. 6*)

We have here a finding of the Secretary-General, based upon first-hand information from General Nimmo, that this conflict started on August 5 with armed men from the Pakistan side invading our country. There could not be a clearer finding of aggression than we have here.

It is important to note that the resolution of the Security Council also mentions the date of 5 August.

Documents captured from the raiders revealed that the headquarters for the training of the infiltrators was located near Murree in West Pakistan, under the command of Lieutenant-General Akhtar Hussain Malik, General Officer Commanding the Twelfth Infantry Division of Pakistan. This organization is known as Headquarters Gibraltar Forces. I do not know why they chose the name "Gibraltar". All commanders connected with Operation Gibraltar were summoned to Murree during the second week of July 1965. President Ayub Khan of Pakistan addressed them personally to explain to them their task of creating confusion and chaos in Jammu and Kashmir. Then these infiltrators were organized into eight forces, each of them composed of six companies of 110 men each. In most cases they were commanded by regular Pakistani army officers of the rank of major, while the platoon commanders were either junior commissioned officers or senior non-commissioned officers.

The Indian Security Forces captured vast quantities of arms and ammunition from these infiltrators. Some of the arms and ammunition captured from the infiltrators bear the marking POF, that is, Pakistan Ordnance Factories. Some of the captured officers held emergency commissions in the Pakistan army. These infiltrators carried radio sets so that they were in communication with Pakistan Headquarters.

India Acts in Self-Defence

Pakistan sent in these infiltrators on August 5. How did we react ? All that we did was to cross the Cease-

fire Line in order to prevent more infiltrators from coming into India. It was a purely defensive action. Then when they attacked us at Chhamb with their regular forces, we had to cross into West Pakistan, in order to prevent these forces from being further strengthened and our lifeline from being destroyed. That again was a defensive action.

May I explain that the Chhamb sector is a very crucial one in Kashmir; it contains our lifeline, our lines of communication to our army on the Cease-fire Line and also communication to the army that is facing China in Ladakh and trying to meet that menace. Their entry in this particular sector of Kashmir was for the purpose of destroying our lifeline so that we should be crippled both with regard to our army on the Cease-fire Line and to our defence against China.

It must be noted that even after Pakistan's aggression, every step that we have taken has been in self-defence. Our reply to Pakistan has not been offensive; it has been purely defensive. We have done our best to prevent the escalation of the conflict. It was Pakistan which for the first time used field artillery; it was Pakistan that used tanks with air cover; it was Pakistan that started the bombing of cities; it was Pakistan that resorted to the dropping of paratroops; it was Pakistan that used its navy to bomb one of our seaports, while we did not use our navy at all.

Although President Ayub said that we were at war, our Prime Minister more than once stressed the fact that there was no war between the people of the two countries and that we do not want to be at war with Pakistan.

This conflict was a peculiar tragedy for our country. We have always stood for peace. We are wedded to

the cause of peace. Our great leader, Mahatma Gandhi, gave the message of non-violence and peace to the whole world, and it was such a pity that we should have been involved in this war. But Mahatma Gandhi also said that a country must defend itself against aggression, that a country must have self-respect and dignity; if a country loses dignity and self-respect that country ceases to exist. This particular conflict was not of our making. If we have had to resist with arms Pakistan's aggression, it was purely for the purpose of self-defence.

War is opposed to our basic philosophy. We realize the horrors and devastation of a war. A war makes no distinction between combatants and non-combatants, between the innocent and the guilty. War means to us a threat to our economic progress. We are already fighting a tremendous war against poverty and ignorance. As Minister of Education, I know what the war against ignorance means, and we do not want to be stopped or deterred from carrying on that war. Therefore, we do not want to divert either our attention or our resources from our primary purpose, which is to raise the standard of living of our people.

V. A CEASE-FIRE IS NEGOTIATED

When the U.N. Secretary-General came to the Indo-Pak sub-continent to work for a cease-fire, the responses he got from the two governments were typical.

Let me first quote from the letter of the Prime Minister of India of September 14 :

> "In deference to the wishes of the Security Council and to the appeals which we have received from many friendly countries, we accept your proposal for an immediate cease-fire. We would, therefore, be prepared to order a cease-fire effective from 6.30 a.m., Indian standard time, on Thursday 16 September 1965, provided you confirm to me by 9 a.m. tomorrow that Pakistan is also agreeable to do so."
>
> (*S/6683, para. 8*)

In his letter of September 15, he stated :

> "I reaffirm my willingness, as communicated, to order a simple cease-fire and cessation of hostilities as proposed by you, as soon as you are able to confirm to me that the Government of Pakistan has agreed to do so as well. The actual time when the cease-fire would become effective would depend upon the time when you are able to convey to me the agreement of the Government of Pakistan to a cease-fire."
>
> (*Ibid., para.* 11)

We were imposing no conditions. It is quite clear from the whole tenor of the Indian Prime Minister's letters that he was prepared to accept an unconditional

cease-fire. This is what the Security Council wanted, and we complied with the request of the Security Council. Now let us see the reply of President Ayub of Pakistan. He stated :

> "I am fully conscious of the gravity of the present situation and also of the dangers implicit in the catastrophe that threatens to engulf the sub-continent particularly because of the certainty that as time goes on the present conflict would be bound to assume graver and wider dimensions.
>
> "However, a cease-fire can be meaningful only if it is followed by such steps as would lead to a durable and honourable settlement in order to preclude the recurrence of a catastrophe such as now threatens the sub-continent. To bring about such a settlement, it would be necessary to evolve an effective machinery and procedure that would lead to a final settlement of the Kashmir dispute."
>
> (*Ibid., para. 14*)

Whereas our response to the Secretary-General's mission and the resolution of the Security Council calling for a cease-fire was positive, constructive and unequivocal, the response of Pakistan was obstructive and non-co-operative.

Pakistan laid down conditions. It demanded withdrawal of all troops from Kashmir, an extraordinary condition. When analysed, it means that although we have got the legal right, the constitutional right, to have troops in Kashmir for its defence and security, we must withdraw them before the great country of Pakistan will condescend to talk with us or to accept a cease-fire. Pakistan forgets that even under the United Nations resolution accepted by her we are entitled to have troops

in Kashmir, and Pakistan had agreed to withdraw all its troops from that part of Pakistan which it occupies.

Another condition laid down by Pakistan for a cease-fire was the induction of an Afro-Asian force. We are entirely opposed to this proposal. We do not want any foreign troops in our country, on our soil. We can look after the interests of our people ourselves. We know how to defend ourselves, and we will never agree to any foreign troops being inducted into our country.

Finally—and this was the most extraordinary condition of all—Pakistan demanded a plebiscite within three months. These conditions are all impossible and preposterous. But let me deal with this last one : a plebiscite within three months. Kashmir is an integral part of India and we do not hold plebiscites in parts of the country. The U.S.A. would not agree to hold a plebiscite in New Mexico, or Texas, or Alaska; and this would apply to many other countries that I could mention. But Pakistan decided that it wanted a plebiscite at the point of the gun, at the point of the bayonet. The argument was this : we have invaded Kashmir; now hold a plebiscite within three months !

Security Council Resolution

Judged against this background, the resolution of the Security Council of September 20, 1965 constituted a major diplomatic reverse for Pakistan. I cannot say that it is wholly favourable to India. But it is not unfavourable.

Let us look at the resolution. The preamble says :

> "The Security Council, having considered the reports of the Secretary-General on his consultations with the Governments of India and Pakistan,

"Commending the Secretary-General for his unrelenting efforts in furtherance of the objectives of the Security Council's resolutions of 4th and 6th September,

"Having heard the statements of the representatives of India and Pakistan,

"Noting the *differing* replies by the parties to an appeal for a cease-fire as set out in the report of the Secretary-General, but noting further with concern that no cease-fire has yet come into being, ..."

This is a very important operative part—what we urged before the Security Council. By implication this preamble makes clear the difference between the attitudes of India and Pakistan. Our Prime Minister, by his letter of the 15th September, accepted an unconditional cease-fire. We asked them to contrast it with President Ayub's reply of the 17th and record the fact that whereas India had accepted the cease-fire without conditions, Pakistan had not done so.

The Security Council could not go to that length, but it says : ". . . differing replies by the parties to an appeal for cease-fire as set out in the report of the Secretary-General." Anybody who looks at the report of the Secretary-General and looks at our Prime Minister's letter of the 15th, and President Ayub's letter of the 17th, will see the point.

At the very last meeting of the Security Council when the resolution was passed I made a statement on this resolution which made the position of the Government of India perfectly clear so that there will be no doubt as to what the position was. This is what I said :

"As I read it, this resolution is not directed against my country. We have already accepted the

unconditional cease-fire and we certainly will carry it out if Pakistan will carry it out. To the extent this resolution deals with the cease-fire, it could only be directed against Pakistan, which has not accepted the unconditional cease-fire."

Then, coming to the next paragraph :

"Convinced that an early cessation of hostilities is essential as a first step towards a peaceful settlement of the outstanding differences between the two countries on Kashmir and other related matters."

This expression "Kashmir and other related matters" appears in the joint declaration of the then Prime Minister and President Ayub in 1962. There is no reason why we should look upon this part of the preamble as prejudicial to us. Nowhere in this resolution is the word "plebiscite" used, and nowhere is the old resolution of the Security Council referred to. When we talk of Kashmir, we must not merely think of Pakistan's claim for a plebiscite. We were the complainants before the United Nations : we went to the United Nations complaining of Pakistan's aggression. That aggression still continues, and we have every right to say that if there is a Kashmir dispute, the only dispute is about Pakistan's aggression and continuing aggression.

I now come to the operative part of the resolution, which :

"Demands that a cease-fire should take effect on Wednesday, 22nd September, 1965, and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent *withdrawal of all armed personnel* back to the positions held by them before *5th August, 1965;*"

The most crucial date in this resolution is the 5th August, 1965, because that is the date on which Pakistan committed fresh aggression on our country. August 5 is the date which is to be found in the Secretary-General's report. This is what the Secretary-General says :

> "Gen. Nimmo has indicated to me that the series of violations that began on the 5th August were to a considerable extent in subsequent days in the form of armed men generally not in uniform crossing the cease-fire line from the Pakistan side for the purpose of armed action on the Indian side."

This is not our allegation, not our view of the situation, but the report of the most powerful and most impartial international civil servant in the world today, the Secretary-General of the United Nations. This is his finding. If ever there was a clear and unequivocal finding about an aggression, here it is. His finding is that aggression was committed by Pakistan on the 5th August, 1965.

Although there is no explicit condemnation of Pakistan as an aggressor, which this country would have liked, it is implicit in this operative part. India's position was made perfectly clear before the Security Council as to what we mean by *withdrawal of all armed personnel* back to the positions held by them before the 5th August. In the debate held in the Security Council on the 17th September, this is what I said :

> "All the invaders who have invaded Kashmir must leave. They must be withdrawn. They must be called back. As they were sent by Pakistan, they must be called back by Pakistan. Secondly, it must be made impossible for such infiltration to take place again. Thirdly, Pakistan must own its responsibility for this infiltration."

Therefore, I made it clear that by withdrawal of the armed forces back to the positions held by them on the 5th August, what India understood is, firstly, acknowledgement by Pakistan that she had sent these infiltrators; secondly, withdrawal of these infiltrators; and thirdly, a situation to be created when such recurrence in future would be made impossible. As the Prime Minister has said : We do not want to go on from one cease-fire to another. We want to be satisfied that such a situation will not arise in future. We do not want to be put back in a position where thousands of infiltrators can enter our country and do what they have been doing there, create havoc, devastation, practise brutalities and cruelties, everything which we thought belonged to the past or the Hitler regime and not to modern civilised times.

Let me quote here what the Prime Minister wrote to the Secretary-General on the 14th September :

> "In the light of our own experience during the last few months, we will have to insist that there must be no possibility of a recurrence of armed attacks on India, open or disguised. Let me make it perfectly clear, Mr. Secretary-General, that when consequent upon cease-fire becoming effective, further details are considered, we shall not agree to any disposition which will leave the door open for further infiltrations or prevent us from dealing with the infiltrations that have taken place."

The Prime Minister also wrote :

> "I would also like to state categorically that no pressures or attacks will deflect us from our firm resolve to maintain the sovereignty and territorial integrity of our country, of which the State of Jammu and Kashmir is an integral part."

Nothing can be clearer, more unequivocal, more categorical than this statement of the Prime Minister. I pointed out to the Security Council that this was the attitude of the Government and I reiterated it.

Then, the resolution—

> "Calls on all the States to refrain from any action which might aggravate the situation there."

This is a plea to all the States, and I take it that China is included, although it is not a member of the United Nations, not to intervene and aggravate this conflict.

The Security Council resolution further—

> "Decides to consider, as soon as operative paragraph 1 of the Council's resolution 210 of September 6 has been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilise all peaceful means, including those listed in Article 33 of the Charter, to this end."

The steps which the Security Council could take are many. But here again there is no reference to Kashmir, and no reference to plebiscite; what we are called upon to do is to utilise all peaceful means, including those listed in Article 33 of the Charter. This country has always believed in peaceful means. It has always believed in debate and discussion. You will notice that no time-limit is fixed. It is left to us. This is a purely recommendatory part of the resolution. We are asked to enter into discussions in order to bring about a peaceful settlement, and there is mention of Article 33 of the Charter. Article 33 of the Charter, if you look at it, contains a large number of methods by which a peaceful

settlement could be arrived at. Here also there is no prejudice as far as we are concerned.

Finally, the Security Council resolution—

> "Requests the Secretary-General to exert every possible effort to give effect to this resolution, to seek a peaceful solution, and to report to the Security Council thereon."

The best way to judge how seriously Pakistan considered this to be a diplomatic defeat is the response that was given by the Pakistan representative in the Security Council. I twice challenged him there to answer unequivocally whether he accepted a cease-fire unconditionally as our Prime Minister had done, and on both the occasions he refused to accept the challenge. I have a shrewd suspicion that the reason for this delay, why the challenge was not accepted at the meeting of the Security Council and why some time lapsed before President Ayub accepted a cease-fire, is that during that interval—a crucial and vital interval—Pakistan realized that China was not coming to her assistance. If Pakistan had felt that China was going to press home her ultimatum and invade us, I have a feeling that the answer of Pakistan would have been very different. This is what he said. This is the statement by Mr. Zafar, Law Minister of Pakistan, on the 20th September, when the resolution was about to be passed :

> "...should the Security Council adopt this draft resolution, we feel bound to warn and to put it on the record that unless the basic cause of the present conflict is removed, another and wider conflagration is bound to ensue."

One aggression is not over, and here is a threat of a new and wider conflagration ! You will notice the utter

dissatisfaction in this particular statement, because the resolution did not heed any of the conditions which President Ayub was insisting on. The conditions were : (i) withdrawal of all troops not only from the part of Kashmir of which Pakistan is in unlawful occupation but that India should also withdraw from Kashmir where we are now; (ii) induction of an Afro-Asian force; and, (iii) plebiscite within three months. In this statement Mr. Zafar said that as these conditions were not satisfied, the resolution was unsatisfactory and another and wider conflagration was bound to ensue. You will notice that even President Ayub, when he accepted the cease-fire, said the resolution was unsatisfactory and mentioned that unless the Kashmir problem was solved, the continent will be submerged in a conflagration.

It is obvious that Pakistan does not wish to renounce aggression as an instrument of its policy. But Pakistan must not be allowed to enjoy the fruits of aggression. Not only must this aggression be condemned, but also Pakistan must be asked to vacate this aggression.

What is the utility of the Security Council if it does not condemn aggression on the evidence of facts? Otherwise, international law has no meaning and international society cannot exist.

Certain nations have been talking of impartiality, that they must be impartial between India and Pakistan. I have been a judge for seventeen years. When I have two parties before me, I am not impartial; I have to reveal my judgement; I have got to say who is right and who is wrong. A judge cannot afford to be impartial. When two parties appear before a judge, he has to decide. I think that it is wrong for the Security Council to say that it is going to be impartial as between

India and Pakistan. It is an entirely wrong attitude, a weak attitude; it is an attitude which will completely destroy the utility of this Council. If they had no evidence, they could withhold judgement or reserve it. But when they had the statement of the Secretary-General, when they had the evidence that I have reproduced above, how could the Security Council say, "We will bracket the two countries together, we will be impartial, we will not pass judgement" ? I think that the time has come when the Council must call a spade a spade. The Security Council has hesitated too often in doing this. But there are times in history—and this is one of them; as I develop my argument I will satisfy you that we have reached the watershed of history—when the Security Council must call a spade a spade.

VI. A MATTER OF PRINCIPLE

This is not merely a conflict between India and Pakistan; it has a much wider significance.

This is a war between two ideologies. On the one hand, there is the religious State; and on the other, the secular State. This is the crux of the conflict; it is not about Kashmir. Kashmir is merely the symptom; it is not the disease. The disease is that Pakistan believes in a religious State; it believes in religion as the nexus between citizens. We in India believe in a secular State, in a multi-racial society. And it is also a fight between a free society and democratic institutions, on the one hand, and dictatorship and regimentation on the other. These are the issues involved. And I think that it is in the interest of Asia and the world that our free society, our multi-communal federation should survive.

The attack on Kashmir was an attack for the purpose of breaking up our federation, of breaking up our way of life, of preventing us from carrying on our great experiment of men of different beliefs and different languages living peacefully together. The U.S.A. and the U.S.S.R. are great countries trying the same experiment. Other countries too are trying it. But Pakistan does not want it; it does not believe in it and wants to break it up.

Many of our differences with Pakistan are due to the fact that there is this basic difference between our policy and that of Pakistan. While we have based our State on secularism, which means that there is no official church and everyone is entitled to profess and practise his religion without let or hindrance from the State,

Pakistan is a theocratic State. When the leaders of the Muslim League demanded partition of the country, the demand was based on the two-nation theory. Their contention was that Hindus and Muslims were separate nations and were entitled to have a homeland of their own. We recognize India and Pakistan as two nations, but we have repudiated the two-nation theory based on religion and it is abhorrent to us. If Hindus and Muslims constitute two nations, then the inevitable result must follow that the 50 million Muslims in India are aliens in their own homes.

We refuse to subscribe to the theory that religion can be the sole basis of nationality. We believe in a multi-racial, multi-communal and multi-linguistic society, and according to us, peace and goodwill in this world depend upon the success of such a society.

I am sure that this sentiment will strike a sympathetic chord in the hearts of many African countries which have achieved independence in the last few years. Most of them have populations which practise different religions. The same is the case with many West Asian countries; in the United States and the U.S.S.R. too, a brave attempt is being made to consolidate and integrate different racial groups.

What we are defending is not merely the territorial integrity of our country—which is important enough. What we are defending today is the existence of a free, democratic nation. We want to function as a free, democratic nation. It is the threat to our institutions that we are resisting.

Pakistan's objective was to wage a religious war. We are living in the modern age. We in India have learned to understand that religion is something personal

and intimate. It is your contact with your Creator. It is your attempt to understand the inscrutable mystery of existence. We do not wear our religion on our sleeves now. We do not ostentatiously brandish it in the face of people. But I am sorry to say that Pakistan is still in the mediaeval age.

Pakistan's mistaken hope was that not only the people of Kashmir but the 50 million Muslims in India would support her and that there would be communal trouble in India.

There are two million Muslims in Kashmir but there are fifty million Muslims in India. India—some people do not realize this—is the third largest Muslim country in the world. These Muslim brothers of ours, fellow citizens live in perfect satisfaction with all the rights that the majority community enjoys under our Constitution. They have all the fundamental rights. We are a secular State. But Pakistan does not like this because it is a theocratic State; it is a religious State. To Pakistan religion is the basis of citizenship. To us religion is not the basis of citizenship. This argument will be supported by the countries of "the Middle East" and other parts of the world where people of different religions live together as nationals.

May I quote Mr. Bhutto on this question of religious war ? This is what he said in his broadcast of September 3, 1965 :

> "Let India not be complacent in waging war in Kashmir. Let them not disregard the lessons of history. Let them not forget that if Pakistanis have hitherto shown the patience of a Solomon, they are also the descendants of the heroic soldiers of Islam

who have never showed any hesitation in laying down their lives in defence of their honour and the pursuit of justice."

Why "heroic soldiers of Islam"? Are they fighting a war of Islam? It is an insult to Islam to suggest that Islam is intolerant or that Islam believes in wars and conflicts. Then Mr. Bhutto said the following at an Independence Day civic reception at Lahore on August 14 :

> "India is known as a country believing in threats alone... I want to tell Mr. Shastri and India that after all justice is sure to prevail. We are not alone in this. Our religion is spreading all over the world."

Again the appeal is a religious appeal. Realize the danger of this. There are fifty million Muslims living in India in peace and amity, in friendship and concord with other communities. The whole attempt of Pakistan was to disrupt this unity, to bring about communal discord and then to appeal to the world, by saying : you see, Indians treat their minorities badly.

Pakistan has shown a great solicitude for the minorities in India. I do not think she need be so solicitous about them. They are perfectly happy, enjoying all the rights of free citizens, with all the fundamental rights guaranteed to them. Pakistan is a religious state. Under the Pakistan Constitution, no one but a Muslim can be President of Pakistan. Under our Constitution, we make no distinction as to caste or community. In Pakistan, there are no real parliamentary institutions; there are no direct elections, and democracy functions, if at all, in a very diluted and modified form.

Pakistan's Motives in Demanding Kashmir

We have been told that Kashmir is a vital question. Vital to whom ? To the people of Kashmir or to Pakistan ? President Ayub Khan in moments of self-revelation has more than once stated that Kashmir was vital to Pakistan's economy and defence. This is what President Ayub Khan said in December 1959 :

> "Kashmir is vital for Pakistan, not only politically but militarily as well. Kashmir is a matter of life and death."

And again the President of Pakistan said :

> "You might say, 'Why can't you give up Kashmir ?' Well, we cannot give up that dispute not because we are bloody-minded but...for example, for the reason that Kashmir is connected with our physical security. Thirty-two million acres in Pakistan are irrigated from rivers that start in Kashmir."

This is from the speech delivered by President Ayub Khan at a luncheon meeting at the National Press Club, Washington, on July 13, and as reported in *The Pakistan Times* of July 14, 1961.

Again to quote the Pakistan President :

> "Kashmir is important to us for our physical as well as economic security."

This was what President Ayub Khan said at Karachi on July 19, as reported in *The Pakistan Times* of July 20, 1961.

One more quotation :

> "Pakistan's President declared that Kashmir was a life and death question for Pakistan and without the solution of this problem we cannot be assured of the safety of our territory, especially the western wing of our country...."

President Ayub Khan made this statement at Dacca on October 18, and it was reported in *The Pakistan Times* of October 19, 1961.

So the cat is out of the bag. Kashmir is not vital for human reasons or human considerations; it is vital to Pakistan for its own reasons, namely, its own security and its own defence.

This also explains what the founder of Pakistan, Mr. Jinnah, once said : that he was not satisfied with the Pakistan which he had obtained because it was a "moth-eaten, truncated Pakistan." It is therefore not out of consideration for human rights that Pakistan has been so ceaselessly and pertinaciously attempting to seize Kashmir.

I quote here a broadcast which was made by Mr. Bhutto on September 15, 1965, and it is very significant :

> "Pakistan can never be complete without self-determination in Kashmir. This is the demand of the Muslims of the sub-continent."

Let me make two comments on this statement. Even before a plebiscite, which Pakistan demands, has taken place, Mr. Bhutto has made up his mind that Kashmir shall belong to Pakistan because, according to him, Pakistan will never be complete without the self-determination of Kashmir. Therefore, according to him, the self-determination of Kashmir means Kashmir belonging to Pakistan.

The second extraordinary assertion is that this is the demand of the Muslims of the sub-continent. Now, with all respect to Mr. Bhutto, who made him the representative of the Muslims of the sub-continent ? According to him, this is not merely the demand of the people of

Pakistan, but also the demand of the Muslims of India. He forgets that hundreds and thousands of meetings of Muslims have been held in India, in all parts of the country, entirely supporting the Government of India on this issue. India is one in fighting this aggression by Pakistan and in taking up the attitude that Kashmir is an integral part of India. There is no Hindu-Muslim problem about Kashmir in India. Every Indian, whether he be Hindu or Muslim or Christian or Jew or Buddhist, is agreed on one thing: that Kashmir is an integral part of India and is part of the Federation which constitutes our country.

I do not want anybody to be under any misapprehension as to the attitude of India with regard to Kashmir; nor do I want Pakistan to be under any misapprehension. Kashmir is an integral part of India. Kashmir is a unit of the Indian Federation; and we will not permit our Federation to be broken up.

The separation of Kashmir from India means the break-up of our Federation of India. It would mean as much a break-up as if any other part of India were separated from India.

The representatives of Pakistan, surprisingly enough, refer to the people of Kashmir as the "kith and kin" of Pakistanis. It is a surprising statement. Why are they kith and kin of Pakistanis? Is it merely because the majority of the people in Kashmir happen to be Muslims? There are 50 million Muslims in India; I suppose that the next suggestion of Pakistan will be that they have got 50 million people in India who are their kith and kin and, therefore, they have a right to invade India.

It is sad that Pakistan should be taking this attitude

with the help of the arms supplied to Pakistan by the United States not for the purpose of fighting India but for the purpose of meeting the Chinese menace. President Eisenhower stated on February 24, 1954 :

> "What we are proposing to do and what Pakistan is agreeing to is not directed in any way against India. And I am confirming publicly that if our aid to any country including Pakistan is misused and directed against either in aggression, I will undertake immediately, in accordance with my constitutional authority, appropriate action, both within and without the United Nations to thwart such aggression."

This is what Mr. Bunker, who was then the Ambassador to India, said in November 1957 :

> "If Pakistan uses American arms against India for aggressive purposes, she will forfeit our assistance and we will be on the side of India."

Secretary of State John Foster Dulles, who was not very friendly to us in those days said in 1956 :

> "I think there can be every confidence on the part of India that there will be no use of these arms in any aggressive way against India, and certainly Pakistan knows that if that should happen there will be a quick ending of its good relations with the United States, and that on the contrary under the principles of the United Nations Charter the United States would be supporting India, if it became the victim of any armed aggression."

These were not ordinary people giving us assurances. These were assurances by the President of the United States, by the Ambassador of the United States and by the Secretary of State of the United States. Yet in 1965 we had the extraordinary situation of Pakistan fighting

us with Patton tanks, with arms which Pakistan received from the United States, and Pakistan was going to fight us in collaboration with a country which the United States considers to be its number one enemy. Therefore, American arms were going to be used to destroy a country which is friendly to the United States.

It will be recalled that in the second half of September 1965, the Indo-Pak fighting had taken on a new dimension. Chinese troops were massing on our border. At four points they had indulged in probing actions and they were poised for an invasion or a serious attack as soon as their ultimatum expired.

The Law Minister of Pakistan blandly rejected our charge about the complicity between China and Pakistan; but unfortunately the record is much too clear for such bland dismissal of the charge.

May I refer to two or three statements by responsible officials of the Government of Pakistan. In a telecast of the American Broadcasting Company in July 1961, President Ayub, the Head of a member-country of SEATO and CENTO, and a recipient of United States military aid, felt no hesitation in advocating China's system to other countries of South and South-East Asia. Questioning the view that the relations between certain countries of South and South-East Asia and India were friendly, he asked whether those countries were going to feel more secure. "In fact, they would be looking for protection elsewhere, and my belief is they will find it under China's system." He argued that if India's economic and military potential was developed, the rest of Asia, far from taking it as a comfortable example would be apprehensive of India's growing might and out of fear, might seek protection which China would be willing to extend.

In a statement to the Associated Press of Pakistan on April 10, 1963, Premier Chou En-lai disclosed that the leaders of Pakistan had assured him in 1954—mark the year 1954—that Pakistan had joined the Western military alliances only to gain political and military ascendancy over India and that "Pakistan had no other motivation in joining the pacts."

Initiating a foreign policy debate in the Pakistan National Assembly in 1963, the Foreign Minister of Pakistan, Mr. Bhutto, said that in the event of a war with India, Pakistan would not be alone; Pakistan would be helped by the most powerful nation in Asia.

In December 1963, the Chinese Vice-Minister for Foreign Trade, Mr. Nan Han Chen, then on a visit to Pakistan, said :

> "We have to build ourselves militarily, economically and financially to beat the aggressors."

And he added :

> "If ever there is war between India and Pakistan, China will surely support Pakistan and not India."

Apart from this, we have been reading in the Press about the visit of Mr. Chou En-lai and the Vice-President of the Chinese Republic to Pakistan in recent times —and the one country in the world which was opposed to the cessation of hostilities between India and Pakistan was China. It condemned the Security Council which it called an imperialist body. It condemned the peace mission of the Secretary-General, calling him a stooge of the imperialists. And this is for obvious reasons. China was fighting India through Pakistan. The whole policy of China is to disrupt the economy of India, to break up the country, because China realizes

that India is the only country in Asia which can withstand the menace of Chinese aggressiveness. Therefore, there is no point in saying, as the representative of Pakistan said in the Security Council : "We have nothing to do with China; there is no complicity between ourselves and China; we are fighting this war with India singlehanded."

Pakistan has shown surprise that we should resent Pakistan's friendship with China. We do not. We ourselves believe in friendship with all countries and we were friendly with China before it committed aggression on us. What we object to and resent is Pakistan's attitude towards us from the time the Chinese aggression began. One would have thought that when China attacked us Pakistan would have said to us, "We have our quarrels, we have our differences, but we are neighbours and we will not add to your troubles." That would have been a helpful attitude. But not only did Pakistan not stand by us, it used every argument to prevent friendly countries from giving us aid.

China today is in possession of about 15,000 square miles of Kashmir territory, which is Indian territory. By a signal act of generosity at other people's expense, Pakistan handed over 2,000 more square miles to China.

Pakistan's Tightrope Act

We have been witnessing with amusement, and also with a certain amount of disgust, the greatest tightrope act ever seen in international affairs. Pakistan has achieved this act with extraordinary skill by keeping one foot in SEATO and CENTO and the other in the Chinese camp. She is getting closer and closer into the Chinese embrace, and the latest example of this touching

affection between these two countries is what happened when Pakistan, China and a few other countries—I am sorry to use the phrase, which is the only way to express what has happened—ganged up to deny to the USSR a place in the Asian world and refused Malayasia admittance to the Asian-African Conference as an Asian country, to which they have an undoubted right.

Pakistan tells the United States that she is her ally and she wants arms in order to fight Communism. But she tells China that if she attacks India, Pakistan will stab India in the back. The defence of Ladakh, which is north-east Kashmir, against the continuing menace of China is impossible except through Kashmir.

For sixteen years the Chinese Government maintained a non-partisan and neutral stand on the Kashmir issue. But after its own invasion of India in pursuance of its global policy motivated by the chauvinistic desire to establish China's domination in Asia and Africa with the assistance of some other countries, including mainly Pakistan, China has chosen to take sides. Pakistan and China are both aggressors in Kashmir. Both have acquired their gains by the use of force and aggression. The affinity between them is all too obvious. It is no wonder that the Pakistan representative, soon after the Chinese aggression on India, went around the world trying to persuade various countries that it was not China that was the aggressor but India.

India's Lead in Struggle against Colonialism

Pakistan has characterized India's presence in Kashmir as colonial. It chooses to ignore the history of India during the last fifty years. It was India's epic struggle against colonialism, under the leadership of

Mahatma Gandhi, a long-drawn struggle against the mightiest Empire in history, that brought about freedom for India and for Pakistan. She cannot be unaware of the tremendous impact of the Indian movement against colonialism on all freedom movements in Asia and Africa and the inspiration it provided and continues to provide for such movements all over the world. Pakistan completely ignores the unceasing fight that India has waged in the United Nations and the support to freedom movements in Asia and Africa that India has given during the eighteen years of its independent existence and as a founder-Member of the United Nations. To malign such a country as colonial shows the height of prejudice; to insinuate that India's leaders, the greater part of whose life has been spent as freedom fighters, follow a colonial policy, is something which Pakistan alone could do. The fact is that Kashmir, since the dawn of history, has been a part of India, a repository of Indian culture and heritage. It has shared fully in the vicissitudes of Indian history. It has been a part of the Empire of Asoka and Akbar. Srinagar, the capital of Kashmir, was founded by the great emperor Asoka in the third century B.C. The people of Kashmir are blood of our blood and flesh of our flesh, and Jammu and Kashmir as one of the sixteen States of the Indian Union, and the people of Kashmir as Indian citizens, share in the total freedom which India enjoys.

To say that Kashmir is under India's colonial hold is gross calumny and an insult to the people of Kashmir who are Indians and have been Indians ever since one can remember. The fact is that it is time Pakistan examined its own conscience and looked into its own heart and asked itself how it is that it is holding two-

fifths of Kashmir; that, if anything, is colonial occupation.

Pakistan has gone to the length of comparing us with South Africa. I vividly remember the year 1946 when I was at the United Nations as a member of the Indian delegation and handled the resolution which India had tabled against South Africa and which India succeeded in getting adopted in the United Nations General Assembly by a two-thirds majority. We were the first to lead the crusade against racial discrimination and South Africa's racial policies. Pakistan's crude attempt to set us at odds with our African brethren will not succeed. I suppose what Africans say is more authentic than what Pakistan alleges. In this context, let me quote, as an example, what Albert Luthuli said in his book, *Let My People Go*. Chief Luthuli of South Africa, an outstanding African leader, was awarded the Nobel Peace Prize and wrote his book in 1962. At page 210 of his book he states :

> "The way in which India at the UNO has taken up cudgels on behalf of the oppressed South African majority and dragged the whole scandal of *apartheid* into the open has heartened us immeasurably."

Pakistan's Trade with South Africa

If any parallel exists, it is between the policies of Pakistan and South Africa. The Government of South Africa, instead of putting down racialism and *apartheid* supports it, glories in it and gives it a legal and official backing. Pakistan, too, instead of working for a multi-communal society, preaches hatred of one community against the other and exhibits intolerance and fanaticism in every aspect of its policy. Here I may mention that

the U.N. General Assembly at its seventeenth session adopted resolution 1761 (XVII), which called upon Members, among other things, to cease all trade with South Africa. As is well known, India has had no trade with South Africa for the last eighteen years. In spite of the adoption of resolution 1761 (XVII), and in spite of its co-sponsoring and voting for the resolution, Pakistan continued to carry on trade with South Africa, and here I would like to quote from United Nations document A/SPC/94 of November 22, 1963. That document contains the replies received from Member-States in pursuance of General Assembly resolution 1761 (XVII) and the Security Council resolution of August 7, 1963. The replies were contained in communications to the Secretary-General, or to the Chairman of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, or in statements before the General Assembly or the Security Council. I quote from the Pakistan statement contained in the aforementioned document :

> "It has prohibited import of South African goods into Pakistan, and has banned the sale of arms, ammunition and all types of military vehicles and other strategic goods to South Africa. It is still carrying on a certain amount of export trade with South Africa in pursuance of earlier commitments, but is actively considering the termination of such exports."

Afro-Asian Solidarity

Pakistan is now trying to emerge as a protagonist of Afro-Asian solidarity and champion of anti-colonialism. I am sure that the Afro-Asian countries will look askance at this championship of the Afro-Asian cause

by a country which is a member of SEATO and CENTO, which believes in military alliances, and which has always questioned the principle of non-alignment. I do not think that it is necessary for India to remind our Afro-Asian friends of Pakistan's continuing warm friendship and maintenance of diplomatic, commercial and other relations with the Government of Portugal; nor of the Pakistan Government's pro-imperialist role in the Suez crisis.

It is somewhat strange that Pakistan should talk so glibly of Indian neo-colonialism when Pakistan itself is a creation of imperialism, the interests of which it has continued to subserve directly or otherwise ever since its inception through membership in CENTO, particularly to stem the rise of Arab nationalism. I should not like to elaborate further on this point but all that I would say is that we have nothing to learn from Pakistan in respect of anti-colonialism or championship of the cause of freedom of colonial and dependent peoples.

Self-Determination—True and False

Pakistan has made a great deal of play with the idea of self-determination. It has tried to appeal to world opinion by proclaiming that its interest in Kashmir arises from the fact that the people of that State have been denied the right of self-determination. Now, in the first place we must determine what are the connotations of the word "self" in this expression. What is the "self" which has the right to determine its destiny, to determine whether it would be a part of one country or part of another country or would be independent? It is clear that the "self" contemplated in the enunciation of this democratic

principle is not, and cannot be, a constituent part of a country. It can be operative only when one is dealing with a nation as a whole, and the context in which it can be applicable is the context of conquest or of foreign domination or of colonial exploitation. It would lead to disastrous consequences if the expression were extended to apply to the integral part of any country or sections of its population, or to enable such integrated part or sections of the population to secede.

The principle of self-determination cannot, and must not, be applied to bring about the fragmentation of a country or its people. Let us not forget that the United States fought a bloody civil war to prevent, not a small part, but the whole of the South of the United States from seceding and constituting itself into an independent country. I have no doubt that a large majority of the people of that part of the United States were opposed to Abraham Lincoln and his policies and they wanted the freedom to refuse to emancipate the slaves; and yet the United States Government, very rightly and properly, refused to break up its country by permitting a part of it to secede.

In the world today we have innumerable countries in Africa and Asia with dissident minorities. Many of these minorities might like to set up governments of their own. We should have to repaint the map of the world and many Member-States of the United Nations would be broken up. Many countries today have living in them people of different races, religions and cultures, and the future of the world depends upon the evolution of multi-racial States and nations in different parts of the world.

Pakistan's thesis is a reactionary and obscurantist

one. The thesis of self-determination which Pakistan advocates has been used in the recent past by colonialists and neo-colonialists for the disruption of newly-emergent States. Pakistan would have the hands of the clock set backwards and would go back to the days when countries permitted only one religion and persecuted those who followed another faith.

Self-Determination Not for Breaking up a State

Let me repeat that the principle of self-determination is applicable to nations and nation-States and cannot be used for the breaking up of a State or the fragmentation of peoples. It is this principle which the United Nations and all African States invoked to oppose the self-determination of Katanga. No one questions the rightness of this decision which saved the Congo and, perhaps, a large part of Africa from further division and fragmentation and chaos.

We fully endorse the principle of self-determination. But no Member of the United Nations will accept it as an instrument for the fragmentation of the States and the nations. As a Member-State of the United Nations we have already exercised the right of self-determination. Through a Constituent Assembly of elected representatives in which the representatives of the Jammu and Kashmir State participated, the Indian people gave to themselves a Constitution which has been in force for fourteen years. Under that Constitution three general elections based on universal adult suffrage have been held, in the last of which there was an electorate of 210 million—the largest known in history. The Indian people inhabiting Jammu and Kashmir have fully shared in that self-determination. They have already exercised

their right of self-determination, but when it is suggested that there should be self-determination for the people of Kashmir, as distinct from the people of India, this is a proposition which we cannot accept, as indeed any other suggestion based on the premise that the majority of the people of Jammu and Kashmir happens to profess a particular religion.

Repression in Pakistan

Did Pakistan permit the people of the Princely States in Pakistan to exercise the right of self-determination after the Rulers had acceded to Pakistan? As was disclosed in the West Pakistan High Court a few years ago, the accession of Bahawalpur had been forced on the Ruler of that State. The Khan of Kalat revolted against accession and was arrested and detained in 1958. In neither case was the principle of self-determination applied. When Pakistan purchased, and I emphasize the word "purchased", the territory of Gwadar from the Sultan of Muscat, what happened to Pakistan's solicitous regard for the people's right to self-determination? No opportunity was given to the people of Gwadar to say whether in the second half of this, the twentieth century, they wished to be bought like chattel.

Pakistan possesses the happy gift of preaching what it has itself never practised. It asks us to hold a plebiscite in Kashmir without even so much as thinking of holding an election in its own country. It wants us to concede the principle of self-determination to a constituent part of our country without looking nearer home. Has Pakistan ever thought of permitting self-determination to the Pathans who want a State of their own, which is described as Pakhtoonistan?

Let us look at what is happening in Baluchistan. Mr. Abdul Haq, a member of the National Assembly of Pakistan, disclosed some time ago that an Id gathering in Baluchistan had been bombarded. Other Opposition members have also drawn attention to the repression that is going on in Baluchistan, the country-wide arrests, the lathi charges, firings and bombings, and they have expressed the opinion that this might be crossing the limits even of a police State.

The *Guardian* of Manchester had stated in its issue of April 24, 1962, referring to the Baluchistan Administration :

> "The Administration is typical of good colonial rule and there is a wide gulf between it"—that is, the Administration—"and the people."

Let us see what Pakistanis themselves have to say about their own Government. Here is Mr. Qureshi, speaking in the National Assembly at Dacca—this is from the official Pakistan records :

> "We talk of the right of self-determination for the people of Kashmir although we deny the basic rights to the people of Pakistan."

I also find from a debate in the National Assembly of Pakistan—the debate on the Constitution First Amendment Bill, which was held on March 20, 1963—that under an ordinance which was put on the statute book of Pakistan, a police officer can interrogate a person and he can torture him into making a confession. When I read this, I asked myself : "Am I living in 1964 or am I living in the mediaeval era ?" I cannot conceive of a country putting on the statute book a measure which permits the police to torture people into making confession. And this was a statement made, again, in

the National Assembly of Pakistan. This was stated in the Pakistan National Assembly by Mr. Yousaf Khattak, leader of the Opposition.

On April 2, 1964, an interesting incident happened in the course of the debate in the National Assembly in Rawalpindi which throws a flood of light on restrictions placed upon public debate in the legislature on the issue of self-determination for the people of Pakistan. Mr. Qamar-uz-Zaman, a member, stated that Pakistan failed to get sympathy on Kashmir because of failures within the country. The Government demanded self-determination for Kashmir but refused franchise for Pakistani people, and the world knew that the Government had no popular support. The Foreign Minister of Pakistan intervened saying that it was not relevant whether India was a democracy and Pakistan was not, and evidently upset by Mr. Zaman's arguments, called these highly injurious to national interests.

Mr. Hussain Mansoor, another member, said that the Foreign Minister could not refute charges against Pakistan by Minister Chagla in the Security Council—I am very grateful to Mr. Hussain Mansoor, whoever he is; I do not know him—and the Speaker intervened saying, "Kindly stop there; it is not a matter for playing about." The ultimate end of the debate was that the House went into secret session with the support of the Foreign Minister of Pakistan. This is self-determination. This is the right of people in Pakistan.

No country could have done more than India has done to come to a friendly settlement with Pakistan. We have extended the hand of friendship; it has been rejected. We have made overtures; we have been re-

buffed. Now let me give a short resume of what we have been trying to do.

First and foremost, as far back as 1950, our late Prime Minister asked Pakistan to enter into a no-war declaration. We said : "Look, before 1947 we were one country; we are brothers; ethnologically, racially and culturally we are one. It would be a horrible thing to contemplate a war between our two countries. Let us enter into a no-war declaration."

What was the response? It was : No. From 1950 onwards we have repeated this offer. We have said : "We shall not go to war with you, and you must not go to war with us. If we have differences we shall settle them in a peaceful manner."

Why has Pakistan refused to enter into this no-war declaration? It is because she had a guilty mind; because she knew that when the proper time came, she would not hesitate to attack India. Now we know for a fact the reason for her not entering into this no-war declaration.

But this is not the only thing we have done. After the last meeting of the Security Council in 1964, we agreed to have talks with Pakistan. We had a meeting of the Home Ministers of the two countries in April 1964. That meeting was adjourned. We continued to remind Pakistan of the need to have another meeting. After continuous pressure from India, the Government of Pakistan agreed to hold a conference on November 23, 1964 in Karachi. However, about ten days before the meeting was due to take place, the Government of Pakistan unilaterally postponed the conference indefinitely.

In October 1963, the United Nations Chief Military Observer had decided to give awards even against

civilians if they committed breaches of the cease-fire of January 1, 1949. The Government of India accepted this decision. The Government of Pakistan rejected it.

In 1964, the Chief Military Observer proposed a meeting between the military representatives of India and Pakistan to consider the problems arising out of the violations of the Cease-fire Line by armed civilians. India accepted the proposal, but Pakistan rejected it.

In early 1965, the United Nations Military Observer renewed his proposal. India acecpted it, but Pakistan rejected it again.

In July 1964, India proposed a gentlemen's agreement to restore tranquillity along the Cease-fire Line. When Pakistan failed to respond, India repeated this offer—this is found in the letter of the Permanent Representative of India dated 24 August 1964, addressed to the Security Council. At this stage, Pakistan accepted the proposal, and a meeting was fixed for November 2, in Karachi. Two days before the Indian delegation was due to leave for Karachi, the Pakistan Government unilaterally postponed the meeting for an indefinite period, and the meeting has never taken place.

In this connection, I may quote from the U.N. Secretary-General's report where he gives his finding with regard to the Cease-fire Line after it had been repeatedly violated by Pakistan in its massive attacks of August-September 1965 :

> "I have not obtained from the Government of Pakistan any assurance that the Cease-fire and the CFL will be respected henceforth or that efforts would be exerted to restore conditions to normal along that Line. I did receive assurance from the

Government of India, conveyed orally by their Representative at the United Nations, that India would act with restraint with regard to any retaliatory acts and will respect the Cease-fire Agreement and the CFL if Pakistan does likewise."

While we were prepared to respect the Cease-fire Line, Pakistan informed the United Nations Representative that it was not prepared to do so.

Pakistan admittedly has violated the Cease-fire Line. According to the report of the U.N. Secretary-General, Pakistan has admitted that it does not respect the Cease-fire Line. According to Pakistan, the Cease-fire Line has ceased to exist. If you look at the Security Council and UNCIP resolutions passed as far back as 1948 or 1949, it will be seen that all the arrangements that were arrived at with Pakistan through the instrumentality of the Security Council were based on the integrity and inviolability of the Cease-fire Line of January 1, 1949. If Pakistan says the Cease-fire Line does not exist, then the resolutions of the Security Council not only have become obsolete but are dead.

Let me state what lessons, according to me, emerged from the events of August-September 1965. First and foremost, it emerged that Kashmir was not in revolt. Far from Kashmir being in revolt, there was complete peace and normalcy in that State, and I think it is a tribute to Kashmir and those who live in Kashmir that there was complete communal harmony in that part of India.

Bilateral Talks Only Solution

The second thing that emerged was that this matter can only be solved by Pakistan and India. It can only

be solved by bilateral negotiations, and any intervention on the part of third parties will hinder rather than help these negotiations. What also emerged was that it is time we discarded all shibboleths, forgot all resolutions which were passed many years ago, and face the realities of today. The time has come to have a new look at the Kashmir situation; the Kashmir situation can be solved provided you take into consideration what effect it will have on the people of India and the peace and communal harmony prevailing in India.

Kashmir Integral Part of India

Negotiations can always succeed if there is goodwill between both parties. We want to settle with Pakistan, but let us go to the negotiating table on the basis of goodwill. Also, Pakistan should accept certain basic positions which India takes up and which it will always take up. One is that Kashmir is an integral part of India; that is the basic position. The second is that no country can be a party to giving up part of itself. It would break up India, and if this dangerous principle were to be applied to other parts of the world, it would break up Africa, it would break up many parts of Asia, and it would break up many parts of the Middle East.

India is an example and I hope it will always be an example, of how any intercommunal society can exist. Fifty million Muslims and others, Hindus, Christians and Buddhists, have been living in peace in India, and my appeal to Pakistan is: Do not interfere with this experiment. Let this experiment go on because the future of the world depends upon inter-communal societies succeeding. There are inter-communal societies living in Africa and in the Middle East, where there are Muslims

and Christians living happily together, and we are carrying out the same experiment in India.

Thirdly, the Kashmir question will not be solved by interminable discussions and debates in the United Nations. It will be solved only when Pakistan realizes that Kashmir is not a political shuttlecock in the game of anti-Indian policies which she has for the time being adopted. The Kashmir question will be solved when Pakistan realizes that India wishes her well and has no designs on her independence, and that in the prosperity of the two countries lies the prosperity of the whole sub-continent. In this prosperity the people of Kashmir must have a share as an integral part of India.

India has always stood, and stands, for a just solution, a peaceful solution, an early solution to the Kashmir question. It is Pakistan which has blocked the way to such a solution. There cannot be a just solution in international affairs if aggression is either condoned or rewarded. There can be no just solution of the Kashmir question if Pakistan does not vacate her aggression and while the Pakistan army still keeps two-fifths of the State of Jammu and Kashmir in her unlawful possession.

However, despite provocations, we shall continue to work towards amelioration of our unfortunate relations with Pakistan. We do not want our relations to be built on recrimination but on friendship and co-operation and mutual respect. And here I wish to say categorically on behalf of my Government and the Indian people that we wish Pakistan prosperity and well-being as a free and sovereign State and want to build our relations as between two friendly and neighbouring countries on the basis of equality, integrity and sovereignty.

Pakistan has nothing to fear from India. We have no aggressive intentions. We feel that in the prosperity of Pakistan lies the prosperity of the whole sub-continent of India, and this prosperity, both of India and of Pakistan, depends upon Hindus and Muslims in both the countries living peacefully side by side. Let us make every effort to come together and see whether we cannot take the necessary steps towards this end. This is essentially a matter for us to decide—Pakistan and ourselves. No intervention of a third party can be of much help. There are certain matters which can only be settled bilaterally, and the question of peace and harmony in India and Pakistan is one of these.

APPENDICES

I

RESOLUTION OF THE SECURITY COUNCIL OF JANUARY 17, 1948

The Security Council,

Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan;

Recognizing the urgency of the situation;

Taking note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto;

Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people in which they announce their intention to conform to the Charter) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

And further requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under the consideration of the Council, and consult with the Council thereon.

II

RESOLUTION OF THE SECURITY COUNCIL OF JANUARY 20, 1948

The Security Council,

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency;

Adopts the following resolution :

A. A commission of the Security Council is hereby established, composed of representatives of three members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.

Each representative on the Commission shall be entitled to select his alternates and assistants.

B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

C. The Commission is invested with a dual function :

(1) To investigate the facts pursuant to Article 34 of the Charter;

(2) To exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by

the Security Council; and to report how far the advice and directions, if any, of the Security Council have been carried out.

D. The Commission shall perform the functions described in Clause C :

(1) In regard to the situation in the Jammu and Kashmir State set out in the letter of the representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs in Pakistan addressed to the Secretary-General, dated 15 January 1948; and

(2) In regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

F. The Commission, its members, alternate members, their assistants and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary.

III

RESOLUTION OF THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN OF AUGUST 13, 1948

The United Nations Commission for India and Pakistan,

Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir and,

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation.

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal :

PART I

Cease-Fire Order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B. The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir. (For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides).

C. The Commanders-in-Chief of the Forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

D. In its discretion and as the Commission may find practicable the Commission will appoint military observers who under the authority of the Commission and with the cooperation of both Commands will supervise the observance of the cease-fire order.

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A.1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir con-

stitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.
3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B.1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A-2 hereof have withdrawn thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.

2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in

the observance of law and order. The Commission will have observers stationed where it deems necessary.

3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C.1. Upon signature, the full text of the Truce Agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

IV

RESOLUTION OF THE U.N. COMMISSION FOR INDIA AND PAKISTAN OF JANUARY 5, 1949

The United Nations Commission for India and Pakistan,

Having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's Resolution of 13 August 1948 :

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.
3. (a) The Secretary-General of the United Nations will in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

   (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers be considers necessary for organising the freedom and impartiality of the plebiscite,

(c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.

4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine in consultation with the Government of India the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

(b) As regards the territory referred to in A2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

5. All civil and military authorities within the State and the principal political elements of the State will be required to cooperate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and

Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that,

(a) There is no threat, or intimidation, bribery or other undue influence on the voters in the plebiscite.

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party shall be safe and free in expressing their views and in voting on the question of the accession of the State to India and Pakistan. There shall be freedom of travel and exit.

(c) All political prisoners are released.

(d) Minorities in all parts of the State are accorded adequate protection, and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted.

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission

shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations.

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of 1 January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948, and

Resolves to return in the immediate future to the subcontinent to discharge the responsibilities imposed upon it by the resolution of 13 August 1948 and by the foregoing principles.

V

RESOLUTION OF THE SECURITY COUNCIL OF SEPTEMBER 4, 1965

The Security Council,

Noting the report of the Secretary-General (S/6651) dated September 3, 1965,

Having heard the statements of the representatives of India and Pakistan,

Concerned at the deteriorating situation along the cease-fire line in Kashmir,

1. Calls upon the Governments of India and Pakistan to take forwith all steps for an immediate cease-fire.

2. Calls upon the two Governments to respect the cease-fire line and have all armed personnel of each party withdrawn to its own side of the line.

3. Calls upon the two Governments to cooperate fully with the United Nations Military Observer Group in India and Pakistan in its task of supervising the observance of the cease-fire.

4. Requests the Secretary-General to report to the Council within three days on the implementation of this resolution.

VI

RESOLUTION OF THE SECURITY COUNCIL OF SEPTEMBER 6, 1965

The Security Council,

Noting the Report by the Secretary-General on developments in the situation in Kashmir since the adoption of the Security Council Ceasefire Resolution on 4 September, 1965 [S/RES/209(1965) being document S/6661 dated 6 September, 1965].

Noting with deep concern the extension of the fighting which adds immeasurably to the seriousness of the situation,

1. Calls upon the Parties to cease hostilities in the entire area of conflict immediately, and promptly withdraw all armed personnel back to the positions held by them before 5 August, 1965;

2. Requests the Secretary-General to exert every possible effort to give effect to this Resolution and the Resolution of 4 September 1965, to take all measures possible to strengthen the UNMOGIP, and to keep the Council promptly and currently informed on the implementation of the Resolutions and on the situation in the area;

3. Decides to keep this issue under urgent and continuous review so that the Council may determine what further steps may be necessary to secure peace and security in the area.

VII

RESOLUTION OF THE SECURITY COUNCIL OF SEPTEMBER 20, 1965

The Security Council,

Having considered the reports of the Secretary-General on his consultations with the Governments of India and Pakistan, commending the Secretary-General for his unrelenting efforts in furtherance of the objectives of the Security Council's resolutions of 4 and 6 September,

Having heard the statements of the Representatives of India and Pakistan,

Noting the differing replies by the parties to an appeal for a ceasefire as set out in the report of the Secretary-General (S/6683), but noting further with concern that no cease-fire has yet come into being,

Convinced that an early cessation of hostilities is essential as a first step towards a peaceful settlement of the outstanding differences between the two countries on Kashmir and other related matters,

1. Demands that a cease-fire should take effect on Wednesday, 22 September 1965, at 0700 hours GMT and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel back to the positions held by them before 5 August 1965 :

2. Requests the Secretary-General to provide the necessary assistance to ensure supervision of the cease-fire and withdrawal of all armed personnel :

3. Calls on all States to refrain from any action which might aggravate the situation in the area :

4. Decides to consider as soon as operative paragraph 1 of the Council's resolution 210 of 6 September has been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter, to this end :

5. Requests the Secretary-General to exert every possible effort to give effect to this resolution, to seek a peaceful solution, and to report to the Security Council thereon.

VIII

RESOLUTION OF THE SECURITY COUNCIL OF NOVEMBER 5, 1965

The Security Council,

Regretting the delay in the full achievement of a complete and effective cease-fire and a prompt withdrawal of armed personnel to the positions held by them before 5 August 1965, as called for in its resolutions 209 (1965) of 4 September, 210 (1965) of 6 September, 211 (1965) of 20 September and 214 (1965) of 27 September 1965,

1. Reaffirms its resolution 211 (1965) of 20 September 1965 in all its parts;

2. Requests the Governments of India and Pakistan to co-operate towards a full implementation of paragraph 1 of resolution 211 (1965); calls upon them to instruct their armed personnel to co-operate with the United Nations and cease all military activity; and insists that there be an end to violations of the cease-fire;

3. Demands the prompt and unconditional execution of the proposal already agreed to in principle by the Governments of India and Pakistan that their representatives meet with a suitable representative of the Secretary-General, to be appointed without delay after consultation with both parties, for the purpose of formulating an agreed plan and schedule for the withdrawals by both parties; urges that such a meeting shall take place as soon as possible and that such a plan contain a time-limit on its implementation; and requests the Secretary-General to report on the progress achieved in this respect within three weeks of the adoption of the present resolution;

4. Requests the Secretary-General to submit for its consideration as soon as possible a report on compliance with the present resolution.